

115TH CONGRESS  
1ST SESSION

# H. R. 1670

To eliminate the incentive for corporations to continue to hold accumulated earnings offshore, to invest in domestic infrastructure, to provide for international tax reform, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2017

Mr. DELANEY (for himself, Mr. YOHO, Mr. AGUILAR, Mr. BERA, Mrs. BUSTOS, Ms. GABBARD, Ms. HANABUSA, Ms. KELLY of Illinois, Ms. KUSTER of New Hampshire, Mr. LANGEVIN, Mr. SEAN PATRICK MALONEY of New York, Ms. MCCOLLUM, Mr. MCKINLEY, Mr. MOULTON, Mr. NORCROSS, Mr. PERLMUTTER, Mr. POLIS, Mr. QUIGLEY, Mr. RUPPERSBERGER, Ms. SINEMA, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To eliminate the incentive for corporations to continue to hold accumulated earnings offshore, to invest in domestic infrastructure, to provide for international tax reform, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Infrastructure 2.0 Act”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise expressly provided, whenever in this Act an amend-  
6 ment or repeal is expressed in terms of an amendment  
7 to, or repeal of, a section or other provision, the reference  
8 shall be considered to be made to a section or other provi-  
9 sion of the Internal Revenue Code of 1986.

10 (c) TABLE OF CONTENTS.—The table of contents for  
11 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—DEEMED REPATRIATION AND INVESTMENT IN  
DOMESTIC INFRASTRUCTURE

- Sec. 101. Elimination of incentive for corporations to continue to hold accumu-  
lated earnings offshore.  
Sec. 102. American Infrastructure Fund.  
Sec. 103. Dedication of remaining revenues to highway trust fund.  
Sec. 104. Highway Trust Fund Solvency Commission.  
Sec. 105. Regional infrastructure accelerator pilot program.

TITLE II—DEADLINE FOR INTERNATIONAL TAX REFORM

Sec. 201. 18-month deadline for international tax reform.

TITLE III—FALLBACK INTERNATIONAL TAX REFORM

Sec. 300. General effective date of title.

Subtitle A—Reform of Taxation of Income Earned by Controlled Foreign  
Corporations

PART I—GENERAL PROVISIONS

- Sec. 301. Modifications to subpart F income.  
Sec. 302. Deemed repatriation upon transition to fallback international tax re-  
form.

PART II—FOREIGN TAX CREDIT LIMITATIONS

- Sec. 311. Reform of foreign tax credit limitation.  
Sec. 312. Denial of credit and deduction for foreign taxes with respect to ex-  
cluded subpart F income.

## PART III—EXPENSE DISALLOWANCE

Sec. 321. Disallowance of deduction for expenses allocable to exempt income of a controlled foreign corporation.

## PART IV—OTHER PROVISIONS RELATING TO SUBPART F

## SUBPART A—PREVIOUSLY DEFERRED FOREIGN INCOME

Sec. 331. Treatment of previously deferred foreign income.

## SUBPART B—OTHER PROVISIONS

Sec. 336. Elimination of 30-day requirement.

Sec. 337. Modification of definition of United States shareholder.

## Subtitle B—Reform of Foreign Tax Credit Provisions

Sec. 341. Repeal of section 902 indirect foreign tax credits; foreign tax credit related to subpart F income.

Sec. 342. Repeal of rule suspending foreign taxes and credits until related income is taken into account.

1 **TITLE I—DEEMED REPATRI-**  
 2 **ATION AND INVESTMENT IN**  
 3 **DOMESTIC INFRASTRUCTURE**

4 **SEC. 101. ELIMINATION OF INCENTIVE FOR CORPORATIONS**  
 5 **TO CONTINUE TO HOLD ACCUMULATED**  
 6 **EARNINGS OFFSHORE.**

7 (a) IN GENERAL.—Section 965 is amended to read  
 8 as follows:

9 **“SEC. 965. ELIMINATION OF INCENTIVE TO HOLD ACCUMU-**  
 10 **LATED EARNINGS AND PROFITS OFFSHORE.**

11 “(a) TREATMENT OF DEFERRED FOREIGN INCOME  
 12 AS SUBPART F INCOME.—In the case of the last taxable  
 13 year of a deferred foreign income corporation which ends  
 14 before the date of the enactment of the Infrastructure 2.0  
 15 Act, the subpart F income of such foreign corporation (as  
 16 otherwise determined for such taxable year under section

1 952) shall be increased by the accumulated post-1986 de-  
2 ferred foreign income of such corporation determined as  
3 of the close of such taxable year.

4 “(b) REDUCTION IN AMOUNTS INCLUDED IN GROSS  
5 INCOME OF UNITED STATES SHAREHOLDERS OF SPECI-  
6 FIED FOREIGN CORPORATIONS WITH DEFICITS IN EARN-  
7 INGS AND PROFITS.—

8 “(1) IN GENERAL.—In the case of a taxpayer  
9 which is a United States shareholder with respect to  
10 at least one deferred foreign income corporation and  
11 at least one E&P deficit foreign corporation, the  
12 amount which would (but for this subsection) be  
13 taken into account under section 951(a)(1) by rea-  
14 son of subsection (a) as such United States share-  
15 holder’s pro rata share of the subpart F income of  
16 each deferred foreign income corporation shall be re-  
17 duced (but not below zero) by the amount of such  
18 United States shareholder’s aggregate foreign E&P  
19 deficit which is allocated under paragraph (2) to  
20 such deferred foreign income corporation.

21 “(2) ALLOCATION OF AGGREGATE FOREIGN E&P  
22 DEFICIT.—The aggregate foreign E&P deficit of any  
23 United States shareholder shall be allocated among  
24 the deferred foreign income corporations of such

1 United States shareholder in an amount which bears  
2 the same proportion to such aggregate as—

3 “(A) such United States shareholder’s pro  
4 rata share of the accumulated post-1986 de-  
5 ferred foreign income of each such deferred for-  
6 eign income corporation, bears to

7 “(B) the aggregate of such United States  
8 shareholder’s pro rata share of the accumulated  
9 post-1986 deferred foreign income of all de-  
10 ferred foreign income corporations of such  
11 United States shareholder.

12 “(3) DEFINITIONS RELATED TO E&P DEFICI-  
13 TIES.—For purposes of this subsection—

14 “(A) AGGREGATE FOREIGN E&P DEF-  
15 ICIT.—The term ‘aggregate foreign E&P deficit’  
16 means, with respect to any United States share-  
17 holder, the aggregate of such shareholder’s pro  
18 rata shares of the specified E&P deficits of the  
19 E&P deficit foreign corporations of such share-  
20 holder.

21 “(B) E&P DEFICIT FOREIGN CORPORA-  
22 TION.—The term ‘E&P deficit foreign corpora-  
23 tion’ means, with respect to any taxpayer, any  
24 specified foreign corporation with respect to

1           which such taxpayer is a United States share-  
2           holder, if—

3                   “(i) such specified foreign corporation  
4                   has a deficit in post-1986 earnings and  
5                   profits, and

6                   “(ii) as of the date of the introduction  
7                   of Infrastructure 2.0 Act—

8                           “(I) such corporation was a spec-  
9                           ified foreign corporation, and

10                           “(II) such taxpayer was a United  
11                           States shareholder of such corpora-  
12                           tion.

13                   “(C) SPECIFIED E&P DEFICIT.—The term  
14                   ‘specified E&P deficit’ means, with respect to  
15                   any E&P deficit foreign corporation, the  
16                   amount of the deficit referred to in subpara-  
17                   graph (B).

18           “(c) DEDUCTION FOR PORTION OF INCLUDED IN-  
19           COME.—In the case of a United States shareholder of a  
20           deferred foreign income corporation, there shall be allowed  
21           as a deduction for the taxable year in which an amount  
22           is included in the gross income of such United States  
23           shareholder under section 951(a)(1) by reason of this sec-  
24           tion an amount equal to 75 percent of the amount so in-  
25           cluded in gross income.

1       “(d) DEFERRED FOREIGN INCOME CORPORATION;  
2 ACCUMULATED POST-1986 DEFERRED FOREIGN IN-  
3 COME.—For purposes of this section—

4               “(1) DEFERRED FOREIGN INCOME CORPORA-  
5 TION.—The term ‘deferred foreign income corpora-  
6 tion’ means, with respect to any United States  
7 shareholder, any specified foreign corporation of  
8 such United States shareholder which has accumu-  
9 lated post-1986 deferred foreign income (as of the  
10 close of the taxable year referred to in subsection  
11 (a)) greater than zero.

12               “(2) ACCUMULATED POST-1986 DEFERRED FOR-  
13 EIGN INCOME.—The term ‘accumulated post-1986  
14 deferred foreign income’ means the post-1986 earn-  
15 ings and profits except to the extent such earnings—

16                       “(A) are attributable to income of the  
17 specified foreign corporation which is effectively  
18 connected with the conduct of a trade or busi-  
19 ness within the United States and subject to  
20 tax under this chapter,

21                       “(B) if distributed, would—

22                               “(i) in the case of a controlled foreign  
23 corporation, be excluded from the gross in-  
24 come of a United States shareholder under  
25 section 959, or

1           “(ii) in the case of any passive foreign  
2           investment company (as defined in section  
3           1297) other than a controlled foreign cor-  
4           poration, be treated as a distribution which  
5           is not a dividend, or

6           “(C) in the case of any passive foreign in-  
7           vestment company (as so defined), is properly  
8           attributable to an unreversed inclusion of a  
9           United States person under section 1296.

10          To the extent provided in regulations or other guid-  
11          ance prescribed by the Secretary, in the case of any  
12          controlled foreign corporation which has share-  
13          holders which are not United States shareholders,  
14          accumulated post-1986 deferred foreign income shall  
15          be appropriately reduced by amounts which would be  
16          described in subparagraph (B)(i) if such share-  
17          holders were United States shareholders. Such regu-  
18          lations or other guidance may provide a similar rule  
19          for purposes of subparagraphs (B)(ii) and (C).

20          “(3) POST-1986 EARNINGS AND PROFITS.—The  
21          term ‘post-1986 earnings and profits’ means the  
22          earnings and profits of the foreign corporation (com-  
23          puted in accordance with sections 964(a) and 986)  
24          accumulated in taxable years beginning after Decem-  
25          ber 31, 1986, and determined—

1           “(A) as of the close the taxable year re-  
2           ferred to in subsection (a), and

3           “(B) without diminution by reason of divi-  
4           dends distributed during such taxable year.

5           “(e) SPECIFIED FOREIGN CORPORATION.—

6           “(1) IN GENERAL.—For purposes of this sec-  
7           tion, the term ‘specified foreign corporation’  
8           means—

9           “(A) any controlled foreign corporation,  
10          and

11          “(B) any section 902 corporation (as de-  
12          fined in section 909(d)(5)).

13          “(2) APPLICATION TO SECTION 902 CORPORA-  
14          TIONS.—For purposes of section 951, a section 902  
15          corporation (as so defined) shall be treated as a con-  
16          trolled foreign corporation solely for purposes of tak-  
17          ing into account the subpart F income of such cor-  
18          poration under subsection (a) (and for purposes of  
19          applying subsection (f)).

20          “(f) DETERMINATIONS OF PRO RATA SHARE.—For  
21          purposes of this section, the determination of any United  
22          States shareholder’s pro rata share of any amount with  
23          respect to any specified foreign corporation shall be deter-  
24          mined under rules similar to the rules of section 951(a)(2)  
25          by treating such amount in the same manner as subpart

1 F income (and by treating such specified foreign corpora-  
2 tion as a controlled foreign corporation).

3 “(g) DISALLOWANCE OF FOREIGN TAX CREDIT,  
4 ETC.—

5 “(1) IN GENERAL.—No credit shall be allowed  
6 under section 901 for the applicable percentage of  
7 any taxes paid or accrued (or treated as paid or ac-  
8 crued) with respect to any amount for which a de-  
9 duction is allowed under this section.

10 “(2) APPLICABLE PERCENTAGE.—For purposes  
11 of this subsection, the term ‘applicable percentage’  
12 means the percentage specified in subsection (c).

13 “(3) DENIAL OF DEDUCTION.—No deduction  
14 shall be allowed under this chapter for any tax for  
15 which credit is not allowable under section 901 by  
16 reason of paragraph (1) (determined by treating the  
17 taxpayer as having elected the benefits of subpart A  
18 of part III of subchapter N).

19 “(4) COORDINATION WITH SECTION 78.—Sec-  
20 tion 78 shall not apply to any tax for which credit  
21 is not allowable under section 901 by reason of para-  
22 graph (1).

23 “(h) ELECTION TO PAY LIABILITY IN INSTALL-  
24 MENTS.—

1           “(1) IN GENERAL.—In the case of a United  
2 States shareholder of a deferred foreign income cor-  
3 poration, such United States shareholder may elect  
4 to pay the net tax liability under this section in 8  
5 installments of the following amounts:

6           “(A) 8 percent of the net tax liability in  
7 the case of each of the first 5 of such install-  
8 ments,

9           “(B) 15 percent of the net tax liability in  
10 the case of the 6th such installment,

11           “(C) 20 percent of the net tax liability in  
12 the case of the 7th such installment, and

13           “(D) 25 percent of the net tax liability in  
14 the case of the 8th such installment.

15           “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

16 If an election is made under paragraph (1), the first  
17 installment shall be paid on the due date (deter-  
18 mined without regard to any extension of time for  
19 filing the return) for the return of tax for the tax-  
20 able year described in subsection (b) and each suc-  
21 ceeding installment shall be paid on the due date (as  
22 so determined) for the return of tax for the taxable  
23 year following the taxable year with respect to which  
24 the preceding installment was made.

1           “(3) ACCELERATION OF PAYMENT.—If there is  
2           an addition to tax for failure to pay timely assessed  
3           with respect to any installment required under this  
4           subsection, a liquidation or sale of substantially all  
5           the assets of the taxpayer (including in a title 11 or  
6           similar case), a cessation of business by the tax-  
7           payer, or any similar circumstance, then the unpaid  
8           portion of all remaining installments shall be due on  
9           the date of such event (or in the case of a title 11  
10          or similar case, the day before the petition is filed).  
11          The preceding sentence shall not apply to the sale  
12          of substantially all the assets of a taxpayer to a  
13          buyer if such buyer enters into an agreement with  
14          the Secretary under which such buyer is liable for  
15          the remaining installments due under this subsection  
16          in the same manner as if such buyer were the tax-  
17          payer.

18           “(4) PRORATION OF DEFICIENCY TO INSTALL-  
19          MENTS.—If an election is made under paragraph (1)  
20          to pay the net tax liability under this section in in-  
21          stallments and a deficiency has been assessed with  
22          respect to such net tax liability, the deficiency shall  
23          be prorated to the installments payable under para-  
24          graph (1). The part of the deficiency so prorated to  
25          any installment the date for payment of which has

1 not arrived shall be collected at the same time as,  
2 and as a part of, such installment. The part of the  
3 deficiency so prorated to any installment the date  
4 for payment of which has arrived shall be paid upon  
5 notice and demand from the Secretary. This sub-  
6 section shall not apply if the deficiency is due to  
7 negligence, to intentional disregard of rules and reg-  
8 ulations, or to fraud with intent to evade tax.

9 “(5) ELECTION.—Any election under paragraph  
10 (1) shall be made not later than the due date for the  
11 return of tax for the taxable year described in sub-  
12 section (a) and shall be made in such manner as the  
13 Secretary may provide.

14 “(6) NET TAX LIABILITY UNDER THIS SEC-  
15 TION.—For purposes of this subsection—

16 “(A) IN GENERAL.—The net tax liability  
17 under this section with respect to any United  
18 States shareholder is the excess (if any) of—

19 “(i) such taxpayer’s net income tax  
20 for the taxable year described in subsection  
21 (a), over

22 “(ii) such taxpayer’s net income tax  
23 for such taxable year determined without  
24 regard to this section.

1           “(B) NET INCOME TAX.—The term ‘net  
2           income tax’ means the regular tax liability re-  
3           duced by the credits allowed under subparts A,  
4           B, and D of part IV of subchapter A.

5           “(i) INCLUSION OF DEFERRED FOREIGN INCOME  
6 UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF  
7 OVERALL FOREIGN LOSS.—For purposes of section  
8 904(f)(1), in the case of a United States shareholder of  
9 a deferred foreign income corporation, such United States  
10 shareholder’s taxable income from sources without the  
11 United States shall be determined without regard to this  
12 section.

13           “(j) REGULATIONS.—The Secretary may prescribe  
14 such regulations or other guidance as may be necessary  
15 or appropriate to carry out the provisions of this section.”.

16           (b) CLERICAL AMENDMENT.—The table of sections  
17 for subpart F of part III of subchapter N of chapter 1  
18 of such Code is amended by striking the item relating to  
19 section 965 and inserting the following:

“Sec. 965. Elimination of incentive to hold accumulated earnings and profits  
offshore.”.

20 **SEC. 102. AMERICAN INFRASTRUCTURE FUND.**

21           (a) AMERICAN INFRASTRUCTURE FUND.—

22                   (1) IN GENERAL.—There is established a wholly  
23           owned Government corporation—

1 (A) which shall be called the American In-  
2 frastructure Fund (referred to in this Act as  
3 the “AIF”);

4 (B) which shall be headed by the Board of  
5 Trustees established under subsection (b);

6 (C) which may have separate subaccounts  
7 or subsidiaries for funds used to make loans,  
8 bond guarantees, and equity investments under  
9 this section;

10 (D) which shall be available to the AIF to  
11 pay for the costs of carrying out this section,  
12 including the compensation of the Board and  
13 other employees of the AIF; and

14 (E) the funds of which may be invested by  
15 the Board in such manner as the Board deter-  
16 mines appropriate.

17 (2) DEPOSITS TO AIF.—All funds received from  
18 bond issuances, loan payments, bond guarantee fees,  
19 and any other funds received in carrying out this  
20 section shall be held by AIF.

21 (3) LIMITATIONS.—The charter of the AIF  
22 shall limit its activities to those activities described  
23 as the mission of the Board under subsection (b)(2).

24 (4) OVERSIGHT.—The AIF shall register with  
25 the Securities and Exchange Commission and the

1 Chairman shall report to Congress annually as to  
2 whether the AIF is fulfilling the mission of the  
3 Board under subsection (b)(2).

4 (5) TREATMENT OF AIF.—

5 (A) ACCOUNTS.—Title 31, United States  
6 Code, is amended in each of sections 9107(c)(3)  
7 and 9108(d)(2)—

8 (i) by inserting “the American Infra-  
9 structure Fund,” after “the Regional  
10 Banks for Cooperatives,”; and

11 (ii) by striking “those banks” and in-  
12 serting “those entities”.

13 (B) BONDS.—Section 149(b)(3)(A)(i) is  
14 amended by inserting “American Infrastructure  
15 Fund,” after “Federal Home Loan Mortgage  
16 Corporation,”.

17 (b) BOARD OF TRUSTEES.—

18 (1) IN GENERAL.—There is established a Board  
19 of Trustees of the AIF (referred to in this sub-  
20 section as the “Board”), which shall be composed of  
21 9 members who—

22 (A) have substantial experience in bond  
23 guarantees or municipal credit; and

24 (B) to the greatest extent practicable, have  
25 extensive experience working with municipal

1 credit, risk management, and infrastructure fi-  
2 nance.

3 (2) MISSION.—The mission of the Board is—

4 (A) to operate the AIF and its subsidiaries  
5 to be a low cost provider of bond guarantees,  
6 loans, and equity investments to State and local  
7 governments and infrastructure providers for  
8 urban and rural infrastructure projects that—

9 (i) provide a positive economic impact;

10 and

11 (ii) meet such other standards as the  
12 Board may develop;

13 (B) to operate the AIF in a self-sustaining  
14 manner;

15 (C) to not have a profit motive, but to seek  
16 at all times to pursue its mission of providing  
17 low cost bond guarantees and loans while—

18 (i) covering its costs;

19 (ii) maintaining such reserves as may  
20 be needed; and

21 (iii) applying prudent underwriting  
22 standards;

23 (D) to only consider projects put forth by  
24 State and local governments and not to seek  
25 projects directly; and

1 (E) to engage in no other activities other  
2 than those permitted under this section.

3 (3) MEMBERSHIP.—

4 (A) INITIAL MEMBERS.—

5 (i) APPOINTMENT.—Not later than  
6 150 days after the date of the enactment  
7 of this Act, the President shall appoint,  
8 with the advice and consent of the Senate,  
9 as members of the Board—

10 (I) 2 individuals from a list of at  
11 least 5 individuals selected by the  
12 Speaker of the House of Representa-  
13 tives;

14 (II) 2 individuals from a list of  
15 at least 5 individuals selected by the  
16 Minority Leader of the House of Rep-  
17 resentatives;

18 (III) 2 individuals from a list of  
19 at least 5 individuals selected by the  
20 Majority Leader of the Senate;

21 (IV) 2 individuals from a list of  
22 at least 5 individuals selected by the  
23 Minority Leader of the Senate; and

24 (V) 1 individual selected at will  
25 by the President.

1                   (ii) SUBMISSION OF LISTS.—Each of  
2                   the lists described in clause (i) shall be  
3                   submitted to the President not later than  
4                   90 days after the date of the enactment of  
5                   this Act. If any of such lists are submitted  
6                   after the date required under this clause,  
7                   the President may appoint the 2 members  
8                   of the Board who were to be selected from  
9                   such list at will.

10                   (B) STAGGERED TERMS.—The members of  
11                   the Board appointed pursuant to subparagraph  
12                   (A)(i) shall serve staggered terms, with 2 each  
13                   of the initial members of the Board serving for  
14                   terms of 5, 6, 7, and 8 years, respectively, and  
15                   the initial Chair selected under subparagraph  
16                   (D) serving for 9 years. The decision of which  
17                   Board members, other than the Chair, serve for  
18                   which initial terms shall be made by the mem-  
19                   bers of the Board drawing lots.

20                   (C) ADDITIONAL MEMBERS.—

21                   (i) IN GENERAL.—Except as provided  
22                   in subparagraph (A), if the term of a  
23                   member of the Board expires or otherwise  
24                   becomes vacant, the President shall ap-  
25                   point a replacement for such member, with

1 the advice and consent of the Senate, from  
2 among a list of at least 5 individuals sub-  
3 mitted by the Board.

4 (ii) TERM OF SERVICE.—

5 (I) IN GENERAL.—Each member  
6 of the Board appointed to replace a  
7 member whose term is expiring shall  
8 serve for a 7-year term.

9 (II) VACANCIES.—Any member  
10 of the Board appointed to fill a va-  
11 cancy occurring before the expiration  
12 of the term to which that member's  
13 predecessor was appointed shall be ap-  
14 pointed only for the remainder of the  
15 term.

16 (D) CHAIR.—The members of the Board  
17 shall choose 1 member to serve as the Chair of  
18 the Board for a term of 7 years, except that the  
19 initial Chair shall serve for a term of 9 years,  
20 pursuant to subparagraph (B).

21 (E) CONTINUATION OF SERVICE.—Each  
22 member of the Board may continue to serve  
23 after the expiration of the term of office to  
24 which that member was appointed until a suc-  
25 cessor has been appointed.

1           (F) CONFLICTS OF INTEREST.—No mem-  
2           ber of the Board may have a financial interest  
3           in, or be employed by, a Qualified Infrastruc-  
4           ture Project (“QIP”) related to assistance pro-  
5           vided under this section. Owning municipal  
6           credit of any State or local government or own-  
7           ing the securities of a diversified company that  
8           engages in infrastructure activities, provided  
9           those activities constitute less than 20 percent  
10          of the company’s revenues, or investing in  
11          broadly held investment funds shall not be  
12          deemed to create a conflict of interest. The  
13          Board may issue regulations to define terms  
14          used under this subparagraph.

15          (4) COMPENSATION.—The members of the  
16          Board shall be compensated at an amount to be set  
17          by the Board, but under no circumstances may such  
18          compensation be higher than the rate prescribed for  
19          level IV of the Executive Schedule under section  
20          5315 of title 5, United States Code.

21          (5) STAFF.—The Board shall employ and set  
22          compensation for such staff as the Board determines  
23          as is necessary to carry out the activities and mis-  
24          sion of the AIF, and such staff may be paid without  
25          regard to the provisions of chapter 51 and sub-

1 chapter III of chapter 53, United States Code, relat-  
2 ing to classification and General Schedule pay rates.

3 (6) PROCEDURES.—The Board shall establish  
4 such procedures as are necessary to carry out this  
5 section.

6 (7) CORPORATE GOVERNANCE STANDARDS.—

7 (A) BOARD COMMITTEES GENERALLY.—

8 The Board shall maintain all of the committees  
9 required to be maintained by the board of direc-  
10 tors of an issuer listed on the New York Stock  
11 Exchange as of the date of the enactment of  
12 this section.

13 (B) RISK MANAGEMENT COMMITTEE.—The

14 Board shall maintain a risk management com-  
15 mittee, which shall—

16 (i) employ additional staff who are  
17 certified by the Board as having significant  
18 and relevant experience in insurance un-  
19 derwriting and credit risk management;  
20 and

21 (ii) establish the risk management  
22 policies used by the Board.

23 (C) STANDARDS.—The Board shall, to the  
24 extent practicable, follow all standards with re-  
25 spect to corporate governance that are required

1           to be followed by the board of directors of an  
2           issuer listed on the New York Stock Exchange  
3           as of the date of the enactment of this section.

4           (8) BIENNIAL REPORTS.—Not less frequently  
5           than once every 2 years, the Board shall produce a  
6           report that describes, of the materials, goods, and  
7           products that were used to construct, or to support  
8           the construction of, qualified infrastructure projects  
9           (as described in subsection (c)) and received financ-  
10          ing from the American Infrastructure Fund within  
11          the most recent 2 calendar years, the percentage of  
12          such materials, goods, and products that were cre-  
13          ated, sourced, or manufactured in the United States.

14          (c) INFRASTRUCTURE INVESTMENT.—

15               (1) ENTITIES ELIGIBLE FOR ASSISTANCE.—The  
16               AIF may provide assistance to State and local gov-  
17               ernment entities, nonprofit infrastructure providers,  
18               private parties, and public-private partnerships (re-  
19               ferred to in this section as “eligible entities”) to help  
20               finance qualified infrastructure projects (referred to  
21               in this subsection as “QIPs”).

22               (2) FORMS OF ASSISTANCE.—The AIF may—

23                       (A) provide bond guarantees to debt issued  
24                       by eligible entities;

1 (B) make loans, including subordinated  
2 loans, to eligible entities; and

3 (C) make equity investments in QIPs.

4 (3) QUALIFIED INFRASTRUCTURE PROJECTS.—

5 A project qualifies as a QIP under this section if—

6 (A) the project is sponsored by a State or  
7 local government;

8 (B) the infrastructure is, or will be, owned  
9 by a State or local government;

10 (C) the project involves the construction,  
11 maintenance, improvement, or repair of a trans-  
12 portation, energy, water, communications, or  
13 educational facility;

14 (D) the recipient of bond guarantees,  
15 loans, equity investments, or any other innova-  
16 tive financing technique authorized under this  
17 Act provides written assurances prescribed by  
18 the AIF that the project will be performed in  
19 compliance with the requirements of all Federal  
20 laws that would otherwise apply to similar  
21 projects to which the United States is a party;  
22 and

23 (E) in the case of a public transportation  
24 capital project as defined in section 5302 of  
25 title 49, United States Code, the recipient of

1 bond guarantees, loans, equity investments, or  
2 any other innovative financing technique au-  
3 thorized under this Act complies with the grant  
4 requirements applicable to grants made under  
5 section 5309 of such title.

6 (4) APPLICATION FOR ASSISTANCE.—

7 (A) IN GENERAL.—A State or local gov-  
8 ernment that wishes to receive a loan or bond  
9 guarantee under this section shall submit an  
10 application to the Board in such form and man-  
11 ner and containing such information as the  
12 Board may require.

13 (B) REQUIREMENT FOR PUBLIC SPONSOR-  
14 SHIP OF PRIVATE ENTITIES.—A private entity  
15 may only receive a bond guarantee, loan, or eq-  
16 uity investment under this section if the State  
17 or local government for the jurisdiction in which  
18 the nonprofit infrastructure provider or private  
19 partner is located submits an application pursu-  
20 ant to subparagraph (A) on behalf of such non-  
21 profit infrastructure provider or private part-  
22 ner.

23 (5) LIMITATIONS ON SINGLE STATE AWARDS.—

24 (A) ANNUAL LIMITATION.—The Board  
25 shall set an annual limit, as a percentage of

1 total assistance provided under this section dur-  
2 ing a year, on the amount of assistance a single  
3 State (including local governments and other  
4 infrastructure providers within such State) may  
5 receive in assistance provided under this sec-  
6 tion.

7 (B) CUMULATIVE LIMITATION.—The  
8 Board shall set a limit, as a percentage of total  
9 assistance provided under this section out-  
10 standing at any one time, on the amount of as-  
11 sistance a single State (including local govern-  
12 ments and other infrastructure providers within  
13 such State) may receive in assistance provided  
14 under this section.

15 (6) LOAN SPECIFICATIONS.—Loans made under  
16 this section shall have such maturity and carry such  
17 interest rate as the Board determines appropriate.

18 (7) BOND GUARANTEE.—The Board shall  
19 charge such fees for Bond guarantees made under  
20 this section as the Board determines appropriate.

21 (8) EQUITY INVESTMENTS.—With respect to a  
22 QIP, the amount of an equity investment made by  
23 the AIF in such QIP may not exceed 20 percent of  
24 the total cost of the QIP.

1           (9) PUBLIC-PRIVATE PARTNERSHIP REQUIRE-  
2           MENTS.—At least 35 percent of the assistance pro-  
3           vided under this section shall be provided to QIPs  
4           for which at least 10 percent of the financing for  
5           such QIPs comes from private debt or equity.

6           (10) PROHIBITION ON PRINCIPAL FORGIVE-  
7           NESS.—With respect to a loan made under this sec-  
8           tion, the Board may not forgive any amount of prin-  
9           cipal on such loan.

10          (d) DEFINITIONS.—For purposes of this section:

11           (1) INFRASTRUCTURE PROVIDER.—The term  
12           “infrastructure provider” means an entity that seeks  
13           to finance a QIP.

14           (2) SECRETARY.—The term “Secretary” means  
15           the Secretary of the Treasury.

16           (3) STATE.—The term “State” means each of  
17           the several States, the District of Columbia, any ter-  
18           ritory or possession of the United States, and each  
19           federally recognized Indian tribe.

20          (e) APPROPRIATION.—Out of money in the Treasury  
21          not otherwise appropriated, there is hereby appropriated  
22          \$50,000,000,000 to the American Infrastructure Fund.  
23          Amounts appropriated under this subsection shall remain  
24          available without fiscal year limitation.

1 **SEC. 103. DEDICATION OF REMAINING REVENUES TO HIGH-**  
2 **WAY TRUST FUND.**

3 (a) IN GENERAL.—Section 9503(f) is amended by re-  
4 designating paragraphs (5) through (10) as paragraphs  
5 (6) through (11), respectively, and by inserting after para-  
6 graph (4) the following new paragraph:

7 “(5) APPROPRIATION OF REVENUES ATTRIB-  
8 UTABLE TO SECTION 965.—

9 “(A) INITIAL APPROPRIATION.—Out of  
10 money in the Treasury not otherwise appro-  
11 priated, there is hereby appropriated  
12 \$100,000,000,000 to the Highway Trust Fund.

13 “(B) REMAINING REVENUES.—

14 “(i) IN GENERAL.—Out of money in  
15 the Treasury not otherwise appropriated,  
16 there are hereby appropriated to the High-  
17 way Trust Fund the excess of—

18 “(I) amounts equivalent to the  
19 aggregate net tax liabilities under sec-  
20 tion 965 (as defined in such section)  
21 received in the Treasury, over

22 “(II) \$150,025,000,000.

23 “(ii) ADDITIONAL TRANSFERS ONLY  
24 AFTER REVENUES EQUALING INITIAL  
25 TRANSFERS HAVE BEEN RECEIVED IN THE  
26 TREASURY.—For purposes of applying sec-

1                   tion 9601 to clause (i), no transfer shall be  
2                   made under clause (i) until the Secretary  
3                   estimates that the amount described in  
4                   clause (i)(I) has exceeded the amount de-  
5                   scribed in clause (i)(II).”.

6           (b) TRANSFERS TO MASS TRANSIT ACCOUNT.—Sec-  
7           tion 9503(e)(2) of such Code is amended by striking “the  
8           mass transit portion” and inserting “20 percent of the  
9           amounts appropriated to the Highway Trust Fund under  
10           subsection (f)(5), and the mass transit portion”.

11 **SEC. 104. HIGHWAY TRUST FUND SOLVENCY COMMISSION.**

12           (a) ESTABLISHMENT.—There is established in the  
13           legislative branch a commission to be known as the “High-  
14           way Trust Fund Solvency Commission” (in this section  
15           referred to as the “Commission”).

16           (b) DUTY OF THE COMMISSION.—Not later than 1  
17           year after the initial meeting of the Commission, the Com-  
18           mission shall transmit to Congress a written report that  
19           includes recommendations and proposed legislation for  
20           achieving long-term solvency of the Highway Trust Fund.

21           (c) MEMBERS.—

22                   (1) NUMBER AND APPOINTMENT.—The Com-  
23           mission shall be composed of 9 members. Of the  
24           members of the Commission—

1 (A) 1 member shall be appointed by the  
2 President of the United States;

3 (B) 1 member shall be appointed by the  
4 chairman of the Committee on Finance of the  
5 Senate;

6 (C) 1 member shall be appointed by the  
7 ranking minority member of the Committee on  
8 Finance of the Senate;

9 (D) 1 member shall be appointed by the  
10 chairman of the Committee on Ways and Means  
11 of the House of Representatives;

12 (E) 1 member shall be appointed by the  
13 ranking minority member of the Committee on  
14 Ways and Means of the House of Representa-  
15 tives;

16 (F) 1 member shall be appointed by the  
17 chairman of the Committee on Environment  
18 and Public Works of the Senate;

19 (G) 1 member shall be appointed by the  
20 ranking minority member of the Committee on  
21 Environment and Public Works of the Senate;

22 (H) 1 member shall be appointed by the  
23 chairman of the Committee on Transportation  
24 and Infrastructure of the House of Representa-  
25 tives; and

1 (I) 1 member shall be appointed by the  
2 ranking minority member of the Committee on  
3 Transportation and Infrastructure of the House  
4 of Representatives.

5 (2) TIMING OF APPOINTMENTS.—Each of the  
6 appointments made under paragraph (1) shall be  
7 made not later than 45 days after the date of the  
8 enactment of this Act.

9 (3) TERMS; VACANCIES.—Each member shall be  
10 appointed for the life of the Commission, and a va-  
11 cancy in the Commission shall be filled in the man-  
12 ner in which the original appointment was made.

13 (4) COMPENSATION.—

14 (A) IN GENERAL.—Members of the Com-  
15 mission shall serve without pay.

16 (B) TRAVEL EXPENSES.—Each member  
17 shall receive travel expenses, including per diem  
18 in lieu of subsistence, in accordance with appli-  
19 cable provisions under subchapter I of chapter  
20 57 of title 5, United States Code.

21 (d) OPERATION AND POWERS OF THE COMMIS-  
22 SION.—

23 (1) CHAIR.—The chairperson of the Commis-  
24 sion shall be elected by the members of the Commis-  
25 sion.

1           (2) MEETINGS.—The Commission shall meet  
2 not later than 30 days after the members of the  
3 Commission have been appointed, and at such times  
4 thereafter as the chairperson shall determine.

5           (3) RULES OF PROCEDURE.—The chairperson  
6 shall, with the approval of a majority of the mem-  
7 bers of the Commission, establish written rules of  
8 procedure for the Commission, which shall include a  
9 quorum requirement to conduct the business of the  
10 Commission.

11           (4) HEARINGS.—The Commission may, for the  
12 purpose of carrying out this section, hold hearings,  
13 sit and act at times and places, take testimony, and  
14 receive evidence as the Commission considers appro-  
15 priate.

16           (5) OBTAINING OFFICIAL DATA.—The Commis-  
17 sion may secure directly from any department or  
18 agency of the United States, including the Congres-  
19 sional Budget Office and the Government Account-  
20 ability Office, any information or technical assist-  
21 ance necessary to enable it to carry out this section.  
22 Upon request of the chairperson of the Commission,  
23 the head of that department or agency shall furnish  
24 that information or technical assistance to the Com-  
25 mission.

1           (6) CONTRACT AUTHORITY.—The Commission  
2           may contract with and compensate government and  
3           private agencies or persons for any purpose nec-  
4           essary to enable it to carry out this section.

5           (7) MAILS.—The Commission may use the  
6           United States mails in the same manner and under  
7           the same conditions as other departments and agen-  
8           cies of the United States.

9           (e) PERSONNEL.—

10          (1) DIRECTOR.—The Commission shall have a  
11          Director who shall be appointed by the Commission.  
12          The Director shall be paid at a rate of pay equiva-  
13          lent to the annual rate of basic pay for a comparable  
14          position paid under the Executive Schedule, subject  
15          to the approval of the chairperson of the Commis-  
16          sion.

17          (2) STAFF.—The Director may appoint and fix  
18          the pay of additional staff as the Director considers  
19          appropriate.

20          (3) EXPERTS AND CONSULTANTS.—The Com-  
21          mission may procure temporary and intermittent  
22          services under section 3109(b) of title 5, United  
23          States Code, but at rates for individuals not to ex-  
24          ceed the daily equivalent of the annual rate of basic

1 pay for a comparable position paid under the Execu-  
2 tive Schedule.

3 (4) STAFF OF FEDERAL AGENCIES.—Upon re-  
4 quest of the Commission, the head of any Federal  
5 department or agency may detail, without reim-  
6 bursement, any of the personnel of that department  
7 or agency to the Commission to assist it in carrying  
8 out its duties under this section.

9 (5) ADMINISTRATIVE SUPPORT SERVICES.—  
10 Upon the request of the Commission, the Adminis-  
11 trator of General Services shall provide to the Com-  
12 mission, on a reimbursable basis, the administrative  
13 support services necessary for the Commission to  
14 carry out its responsibilities under this section.

15 (f) TERMINATION.—The Commission shall terminate  
16 not later than 60 days after the submission of the report  
17 described in subsection (b).

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
19 authorized to be appropriated such sums as may be nec-  
20 essary to carry out this section.

21 (h) EXPEDITED CONSIDERATION OF COMMISSION  
22 RECOMMENDATIONS.—

23 (1) EXPEDITED CONSIDERATION.—

24 (A) INTRODUCTION OF APPROVAL BILL.—

25 The majority leader of each House or a des-

1           ignee shall (by request) introduce an approval  
2           bill as described in paragraph (3) not later than  
3           the third day of session of that House after the  
4           date of receipt of the report transmitted to the  
5           Congress under subsection (b).

6                   (B) CONSIDERATION IN THE HOUSE OF  
7           REPRESENTATIVES.—

8                   (i) REFERRAL AND REPORTING.—Any  
9           committee of the House of Representatives  
10          to which an approval bill is referred shall  
11          report it to the House without amendment  
12          not later than the third legislative day  
13          after the date of its introduction. If a com-  
14          mittee fails to report the bill within that  
15          period or the House has adopted a concur-  
16          rent resolution providing for adjournment  
17          sine die at the end of a Congress, such  
18          committee shall be automatically dis-  
19          charged from further consideration of the  
20          bill and it shall be placed on the appro-  
21          priate calendar.

22                   (ii) PROCEEDING TO CONSIDER-  
23          ATION.—Not later than 3 legislative days  
24          after the approval bill is reported or a  
25          committee has been discharged from fur-

1           ther consideration thereof, it shall be in  
2           order to move to proceed to consider the  
3           approval bill in the House. Such a motion  
4           shall be in order only at a time designated  
5           by the Speaker in the legislative schedule  
6           within two legislative days after the day on  
7           which the proponent announces an inten-  
8           tion to the House to offer the motion pro-  
9           vided that such notice may not be given  
10          until the approval bill is reported or a com-  
11          mittee has been discharged from further  
12          consideration thereof. Such a motion shall  
13          not be in order after the House has dis-  
14          posed of a motion to proceed with respect  
15          to that special message. The previous ques-  
16          tion shall be considered as ordered on the  
17          motion to its adoption without intervening  
18          motion. A motion to reconsider the vote by  
19          which the motion is disposed of shall not  
20          be in order.

21                   (iii) CONSIDERATION.—If the motion  
22                   to proceed is agreed to, the House shall  
23                   immediately proceed to consider the ap-  
24                   proval bill in the House without inter-  
25                   vening motion. The approval bill shall be

1 considered as read. All points of order  
2 against the approval bill and against its  
3 consideration are waived. The previous  
4 question shall be considered as ordered on  
5 the approval bill to its passage without in-  
6 tervening motion except 4 hours of debate  
7 equally divided and controlled by the pro-  
8 ponent and an opponent and one motion to  
9 limit debate on the bill. A motion to recon-  
10 sider the vote on passage of the approval  
11 bill shall not be in order.

12 (C) CONSIDERATION IN THE SENATE.—

13 (i) COMMITTEE ACTION.—The appro-  
14 priate committee of the Senate shall report  
15 without amendment the approval bill not  
16 later than the third session day after intro-  
17 duction. If a committee fails to report the  
18 approval bill within that period or the Sen-  
19 ate has adopted a concurrent resolution  
20 providing for adjournment sine die at the  
21 end of a Congress, the Committee shall be  
22 automatically discharged from further con-  
23 sideration of the approval bill and it shall  
24 be placed on the appropriate calendar.

1                   (ii) MOTION TO PROCEED.—Not later  
2                   than 3 session days after the approval bill  
3                   is reported in the Senate or the committee  
4                   has been discharged thereof, it shall be in  
5                   order for any Senator to move to proceed  
6                   to consider the approval bill in the Senate.  
7                   The motion shall be decided without debate  
8                   and the motion to reconsider shall be  
9                   deemed to have been laid on the table.  
10                  Such a motion shall not be in order after  
11                  the Senate has disposed of a prior motion  
12                  to proceed with respect to the approval bill.

13                  (iii) CONSIDERATION.—If a motion to  
14                  proceed to the consideration of the ap-  
15                  proval bill is agreed to, the Senate shall  
16                  immediately proceed to consideration of  
17                  the approval bill without intervening mo-  
18                  tion, order, or other business, and the ap-  
19                  proval bill shall remain the unfinished  
20                  business of the Senate until disposed of.  
21                  Consideration on the bill in the Senate  
22                  under this subsection, and all debatable  
23                  motions and appeals in connection there-  
24                  with, shall not exceed 10 hours equally di-  
25                  vided in the usual form. All points of order

1           against the approval bill or its consider-  
2           ation are waived. Consideration in the Sen-  
3           ate on any debatable motion or appeal in  
4           connection with the approval bill shall be  
5           limited to not more than 1 hour. A motion  
6           to postpone, or a motion to proceed to the  
7           consideration of other business, or a mo-  
8           tion to recommit the approval bill is not in  
9           order. A motion to reconsider the vote by  
10          which the approval bill is agreed to or dis-  
11          agreed to is not in order.

12           (D)    AMENDMENTS    PROHIBITED.—No  
13          amendment to, or motion to strike a provision  
14          from, an approval bill considered under this sec-  
15          tion shall be in order in either the Senate or the  
16          House of Representatives.

17           (E)    COORDINATION WITH ACTION BY  
18          OTHER HOUSE.—

19                   (i) IN GENERAL.—If, before passing  
20          the approval bill, one House receives from  
21          the other a bill—

22                           (I) the approval bill of the other  
23                           House shall not be referred to a com-  
24                           mittee; and

1 (II) the procedure in the receiv-  
2 ing House shall be the same as if no  
3 approval bill had been received from  
4 the other House until the vote on pas-  
5 sage, when the bill received from the  
6 other House shall supplant the ap-  
7 proval bill of the receiving House.

8 (ii) EXCEPTION.—This paragraph  
9 shall not apply to the House of Represent-  
10 atives.

11 (2) LIMITATION.—Paragraph (1) shall apply  
12 only to an approval bill described in paragraph (3)  
13 and introduced pursuant to paragraph (1)(A).

14 (3) APPROVAL BILL DESCRIBED.—For purposes  
15 of paragraph (1), a bill described in this paragraph  
16 is a bill—

17 (A) which consists of the proposed legisla-  
18 tion which is included in such report to carry  
19 out the recommendations made by the Commis-  
20 sion in the report; and

21 (B) the title of which is as follows: “A bill  
22 to carry out the recommendations of the High-  
23 way Trust Fund Solvency Commission.”.

24 (4) EXTENDED TIME PERIOD.—If Congress ad-  
25 journals at the end of a Congress and an approval bill

1 was then pending in either House of Congress or a  
2 committee thereof, or an approval bill had not yet  
3 been introduced with respect to a special message,  
4 then within the first 3 days of session of the next  
5 Congress, the Commission shall transmit to Con-  
6 gress an additional special message containing all of  
7 the information in the previous, pending special mes-  
8 sages. An approval bill may be introduced within the  
9 first five days of session of such next Congress and  
10 shall be treated as an approval bill under this sec-  
11 tion, and the time periods described in subpara-  
12 graphs (B) and (C) of paragraph (1) shall com-  
13 mence on the day of introduction of that approval  
14 bill.

15 **SEC. 105. REGIONAL INFRASTRUCTURE ACCELERATOR**  
16 **PILOT PROGRAM.**

17 (a) IN GENERAL.—Not later than 90 days after the  
18 date of enactment of this Act, the Secretary of Transpor-  
19 tation shall establish a regional infrastructure accelerator  
20 pilot program (in this section referred to as the “Pro-  
21 gram”) to assist certain State, local, and regional public  
22 entities to develop improved priorities and financing strat-  
23 egies for the accelerated development of covered infra-  
24 structure projects.

25 (b) ACCELERATOR ESTABLISHMENT AUTHORITY.—

1           (1) IN GENERAL.—In carrying out the Pro-  
2           gram, the Secretary is authorized to establish re-  
3           gional infrastructure accelerators that will—

4                   (A) serve a defined geographic area; and

5                   (B) act as a resource to State, local, and  
6           regional public entities in that area in accord-  
7           ance with this section.

8           (2) APPLICATIONS.—To be eligible for a re-  
9           gional infrastructure accelerator under the Program,  
10          State, local, and regional public entities shall submit  
11          to the Secretary an application proposing an accel-  
12          erator at such time, in such form, and containing  
13          such information as the Secretary determines is ap-  
14          propriate.

15          (3) NUMBER.—To the extent practicable, the  
16          Secretary shall establish at least 5 regional infra-  
17          structure accelerators under the Program.

18          (4) GEOGRAPHIC DIVERSITY.—In establishing  
19          regional infrastructure accelerators under the Pro-  
20          gram, the Secretary shall consider the need for geo-  
21          graphic diversity among such accelerators.

22          (c) ACCELERATOR COMPOSITION.—

23                  (1) IN GENERAL.—Each regional infrastructure  
24          accelerator established under subsection (b) shall in-

1       clude a membership composed of at least the fol-  
2       lowing:

3               (A) A representative of each State, local,  
4               or regional public entity in the area served by  
5               the accelerator that participated in the applica-  
6               tion that resulted in the establishment of the  
7               accelerator.

8               (B) A representative of a State, local, or  
9               regional public entity located outside the area  
10              served by the accelerator with experience in in-  
11              novative infrastructure financing.

12              (C) A representative of a financing entity  
13              that intends to finance covered infrastructure  
14              projects in the area served by the accelerator.

15              (D) A representative of a construction or  
16              development entity that intends to develop cov-  
17              ered infrastructure projects in the area served  
18              by the accelerator.

19              (E) A representative of the Department of  
20              Transportation.

21              (F) A representative of the Department of  
22              the Treasury.

23              (G) A representative of the Environmental  
24              Protection Agency.

1 (H) A representative of another Federal  
2 department or agency with jurisdiction over  
3 covered infrastructure projects intended for the  
4 area served by the accelerator.

5 (2) LOCAL REPRESENTATION REQUIREMENT.—  
6 At least 60 percent of the membership of each re-  
7 gional infrastructure accelerator established under  
8 subsection (b) shall be composed of representatives  
9 of State, local, and regional public entities located in  
10 the area served by the accelerator.

11 (3) DIVERSE PERSPECTIVES.—Each regional  
12 infrastructure accelerator established under sub-  
13 section (b) shall have a membership that represents  
14 a diverse set of public and private perspectives.

15 (d) REGIONAL INFRASTRUCTURE ACCELERATION  
16 PLAN.—Each regional infrastructure accelerator estab-  
17 lished under subsection (b) shall develop and implement  
18 a regional infrastructure acceleration plan for the area  
19 served by the accelerator that—

20 (1) describes how the accelerator will promote  
21 investment in covered infrastructure projects, includ-  
22 ing through—

23 (A) providing guidance and feedback to  
24 State, local, and regional public entities with re-  
25 spect to infrastructure priorities, financing

1 strategies, and other matters relating to such  
2 projects;

3 (B) evaluating and promoting innovative  
4 financing methods;

5 (C) connecting sources of financing to the  
6 public sponsors of such projects;

7 (D) establishing standards to measure the  
8 life-cycle impacts of investments in such  
9 projects; and

10 (E) providing technical assistance and in-  
11 formation on best practices with respect to such  
12 projects from predevelopment activities through  
13 maintenance;

14 (2) assesses regional and multimodal ap-  
15 proaches to advancing innovative investment in cov-  
16 ered infrastructure projects; and

17 (3) develops strategies for—

18 (A) transparency with respect to covered  
19 infrastructure project analysis to ensure the  
20 public interest is protected;

21 (B) predevelopment capital programs to fa-  
22 cilitate the creation of a catalog of covered in-  
23 frastructure projects available for investment;

24 (C) the bundling of smaller-scale and rural  
25 projects into project pools for investment; and

1 (D) the multimodal integration of trans-  
2 portation projects.

3 (e) PROGRAM TERMINATION.—The Program shall  
4 terminate on the date that is 10 years after the date on  
5 which the Program is established under subsection (a).

6 (f) COVERED INFRASTRUCTURE PROJECT DE-  
7 FINED.—In this section, the term “covered infrastructure  
8 project” means a project—

9 (1) sponsored by a State, local, or regional pub-  
10 lic entity; and

11 (2) that involves the construction, maintenance,  
12 improvement, or repair of a transportation, energy,  
13 water, communications, or educational facility that  
14 is, or will be, owned by such an entity.

15 (g) APPROPRIATION.—Out of money in the Treasury  
16 not otherwise appropriated, there is hereby appropriated  
17 \$25,000,000 to the Department of Transportation to  
18 carry out the Program. Amounts appropriated under this  
19 subsection shall remain available without fiscal year limi-  
20 tation.

1           **TITLE II—DEADLINE FOR**  
2           **INTERNATIONAL TAX REFORM**

3   **SEC. 201. 18-MONTH DEADLINE FOR INTERNATIONAL TAX**  
4                           **REFORM.**

5           Notwithstanding any provision of title III, the provi-  
6   sions of, and amendments made by, title III shall not take  
7   effect if a bill which reforms the corporate international  
8   tax system by eliminating the incentive to hold earnings  
9   in low-tax foreign jurisdictions is enacted into law during  
10  the 18-month period which begins on the date of the en-  
11  actment of this Act.

12                   **TITLE III—FALLBACK**  
13           **INTERNATIONAL TAX REFORM**

14   **SEC. 300. GENERAL EFFECTIVE DATE OF TITLE.**

15           For purposes of this title, the term “applicable date”  
16  means the date which is 18 months after the date of the  
17  enactment of this Act.

18   **Subtitle A—Reform of Taxation of**  
19           **Income Earned by Controlled**  
20           **Foreign Corporations**

21                   **PART I—GENERAL PROVISIONS**

22   **SEC. 301. MODIFICATIONS TO SUBPART F INCOME.**

23           (a) **IN GENERAL.**—Subpart F of part III of sub-  
24  chapter N of chapter 1 is amended by striking sections  
25  952 through 956 and inserting the following:

1 **“SEC. 952. SUBPART F INCOME DEFINED.**

2 “(a) IN GENERAL.—For purposes of this subpart, the  
3 term ‘subpart F income’ means, with respect to any con-  
4 trolled foreign corporation, the sum of—

5 “(1) the inclusion percentage of the corpora-  
6 tion’s modified active income, plus

7 “(2) 100 percent of the corporation’s modified  
8 nonactive income.

9 “(b) MODIFIED ACTIVE INCOME.—

10 “(1) IN GENERAL.—The term ‘modified active  
11 income’ means, with respect to any controlled for-  
12 eign corporation, the excess (if any) of—

13 “(A) the corporation’s active foreign mar-  
14 ket income, over

15 “(B) the amount of the reduction under  
16 subsection (e) for deductions properly allocable  
17 to such income.

18 “(2) REDUCTION FOR CERTAIN LOSSES.—

19 “(A) IN GENERAL.—The modified active  
20 income determined under paragraph (1) for any  
21 taxable year shall be reduced (but not below  
22 zero)—

23 “(i) first by any active foreign market  
24 loss for any prior taxable year, and

25 “(ii) then by any qualified loss for  
26 such taxable year (or for any prior taxable

1           year to the extent provided in subsection  
2           (c)(3)(B)).

3           “(B) LIMITATION.—An active foreign mar-  
4           ket loss or qualified loss for any prior taxable  
5           year shall only be taken into account under sub-  
6           paragraph (A)—

7                   “(i) if the prior taxable year is a tax-  
8                   able year which begins on or after the ap-  
9                   plicable date (as defined in section 300 of  
10                  the Infrastructure 2.0 Act), and for which  
11                  the controlled foreign corporation was a  
12                  controlled foreign corporation, and

13                   “(ii) to the extent such loss has not  
14                   been previously taken into account under  
15                   this subsection.

16           “(3) ACTIVE FOREIGN MARKET LOSS.—The  
17           term ‘active foreign market loss’ means, with respect  
18           to any taxable year, the amount by which the  
19           amount determined under paragraph (1)(B) exceeds  
20           the amount determined under paragraph (1)(A).

21           “(c) MODIFIED NONACTIVE INCOME.—

22                   “(1) IN GENERAL.—The term ‘modified non-  
23                   active income’ means, with respect to any controlled  
24                   foreign corporation, the excess (if any) of—

1           “(A) the corporation’s gross income deter-  
2           mined without regard to active foreign market  
3           income, over

4           “(B) the amount of the reduction under  
5           subsection (e) for deductions properly allocable  
6           to such gross income.

7           “(2) REDUCTION FOR QUALIFIED LOSSES.—  
8           The amount determined under paragraph (1) for  
9           any taxable year shall be reduced (but not below  
10          zero) by any qualified loss for any prior taxable year  
11          beginning on or after the applicable date (as defined  
12          in section 300 of the Infrastructure 2.0 Act), for  
13          which the controlled foreign corporation was a con-  
14          trolled foreign corporation, but only to the extent  
15          such loss has not been previously taken into account  
16          under subsection (b)(2) or this subsection.

17          “(3) QUALIFIED LOSS.—For purposes of this  
18          section—

19                 “(A) IN GENERAL.—The term ‘qualified  
20                 loss’ means, with respect to any taxable year,  
21                 the amount by which the amount determined  
22                 under paragraph (1)(B) exceeds the amount de-  
23                 termined under paragraph (1)(A).

24                 “(B) ORDERING RULE FOR LOSSES CAR-  
25                 RIED FROM PRIOR TAXABLE YEARS.—In the

1 case of any qualified losses carried to a taxable  
2 year from 1 or more prior taxable years, such  
3 losses shall be taken into account—

4 “(i) first under paragraph (2), and

5 “(ii) then under subsection (b)(2)(B)

6 to the extent such losses exceed the  
7 amount determined under paragraph (1).

8 “(d) INCLUSION PERCENTAGE.—For purposes of this  
9 section—

10 “(1) IN GENERAL.—The term ‘inclusion per-  
11 centage’ means 20 percent increased by the number  
12 of percentage points (if any) determined under para-  
13 graph (2).

14 “(2) ADDITIONAL INCLUSION FOR EARNINGS  
15 NOT SUBJECT TO OECD AVERAGE FOREIGN TAX.—  
16 The number of percentage points determined under  
17 this paragraph with respect to any controlled foreign  
18 corporation for any taxable year, is the number of  
19 percentage points (not less than zero nor more than  
20 15) which bears the same ratio to 15 as—

21 “(A) the number of percentage points by  
22 which 25 percent exceeds the aggregate foreign  
23 rate of tax imposed on the modified active in-  
24 come of such controlled foreign corporation for  
25 such taxable year, bears to

1 “(B) 25.

2 “(e) EXCLUSION OF UNITED STATES INCOME.—For  
3 purposes of this subpart, any item of income of the con-  
4 trolled foreign corporation which is effectively connected  
5 with the conduct by such corporation of a trade or busi-  
6 ness within the United States shall not be taken into ac-  
7 count in computing the subpart F income of such corpora-  
8 tion unless such item is exempt from taxation (or is sub-  
9 ject to a reduced rate of tax) pursuant to a treaty obliga-  
10 tion of the United States. For purposes of this subsection,  
11 any exemption (or reductions) with respect to the tax im-  
12 posed by section 884 shall not be taken into account.

13 “(f) DEDUCTIONS.—For purposes of subsections  
14 (b)(1)(B) and (c)(1)(B), the active foreign market income,  
15 and gross income other than active foreign market income,  
16 of a controlled foreign corporation shall each be reduced,  
17 under regulations prescribed by the Secretary, by any de-  
18 ductions (including taxes) of such corporation properly al-  
19 locable to items of income taken into account in computing  
20 such income.

21 **“SEC. 953. ACTIVE FOREIGN MARKET INCOME.**

22 “(a) ACTIVE FOREIGN MARKET INCOME DEFINED.—  
23 For purposes of this subpart, the term ‘active foreign mar-  
24 ket income’ means, with respect to any controlled foreign

1 corporation, the aggregate of all items of income which  
2 are—

3 “(1) attributable to economically significant ac-  
4 tivities with respect to a qualified trade or business,  
5 and

6 “(2) derived in connection with—

7 “(A) property which is sold, exchanged, or  
8 otherwise disposed of for use, consumption, or  
9 disposition outside of the United States, or

10 “(B) services which are provided outside of  
11 the United States with respect to persons or  
12 property located outside of the United States.

13 “(b) TREATMENT OF PASSIVE INCOME.—

14 “(1) IN GENERAL.—Except as otherwise pro-  
15 vided in this subsection, the term ‘active foreign  
16 market income’ shall not include the passive income  
17 (as defined in section 954) of a controlled foreign  
18 corporation.

19 “(2) ACTIVE FOREIGN MARKET INCOME IN-  
20 CLUDES CERTAIN INCOME.—The term ‘active foreign  
21 market income’ shall include—

22 “(A) if the controlled foreign corporation  
23 or a qualified business unit of the corporation  
24 is an eligible controlled foreign corporation (as  
25 defined in section 954(e)), any item of income

1 of the corporation or unit which is qualified  
2 banking or financing income (as so defined),

3 “(B) if the controlled foreign corporation  
4 or a qualified business unit of the corporation  
5 is a qualifying insurance company (as defined  
6 in section 954(d)) or a qualifying insurance  
7 company branch (as so defined), any item of in-  
8 come of the corporation or unit which is quali-  
9 fied insurance income (as so defined),

10 “(C) any item of income which is rents or  
11 royalties derived from the ownership and oper-  
12 ation (including leasing) of real or personal  
13 property which is not treated as passive income  
14 under section 954(a)(2)(A), and

15 “(D) in the case of a regular dealer in  
16 property which is property described in section  
17 954(a)(1)(B), forward contracts, option con-  
18 tracts, or similar financial instruments (includ-  
19 ing notional principal contracts and all instru-  
20 ments referenced to commodities), any item of  
21 income from any transaction (including hedging  
22 transactions and transactions involving physical  
23 settlement) entered into in the ordinary course  
24 of such dealer’s trade or business as such a  
25 dealer.

1           “(3) GAIN OR LOSS FROM SALES OF STOCK IN  
2 OTHER CFCS.—If a controlled foreign corporation  
3 sells, exchanges, or otherwise disposes of stock in  
4 another controlled foreign corporation which is a re-  
5 lated person to the selling corporation—

6           “(A) gain from such sale, exchange, or dis-  
7 position shall be treated as active foreign mar-  
8 ket income to the extent that such gain would  
9 have been excluded from gross income under  
10 section 1203 if the selling corporation were a  
11 United States shareholder in the other con-  
12 trolled foreign corporation, and

13           “(B) loss from such sale, exchange, or dis-  
14 position shall not be allowed to the extent such  
15 loss would have been disallowed under section  
16 1213 if the selling corporation were a United  
17 States shareholder in the other controlled for-  
18 eign corporation.

19           “(4) GAIN OR LOSS FROM SALES OF INTERESTS  
20 IN 25-PERCENT OWNED PARTNERSHIPS.—

21           “(A) IN GENERAL.—

22           “(i) PORTION TREATED AS ACTIVE  
23 FOREIGN MARKET INCOME.—In the case of  
24 any sale or exchange by a controlled for-  
25 eign corporation of an interest in a part-

1           nership with respect to which such cor-  
2           poration is a 25-percent owner, gain or  
3           loss on such sale shall be taken into ac-  
4           count in determining active foreign market  
5           income in the amount which bears the  
6           same ratio to the amount of such gain or  
7           loss as the controlled foreign corporation's  
8           distributable share of the active foreign  
9           market income from the partnership over  
10          the applicable period bears to the con-  
11          trolled foreign corporation's distributable  
12          share of gross income from the partnership  
13          over such period. The Secretary shall pre-  
14          scribe such regulations as may be appro-  
15          priate to prevent abuse of the purposes of  
16          this paragraph, including regulations pro-  
17          viding for coordination of this paragraph  
18          with the provisions of subchapter K.

19               “(ii) APPLICABLE PERIOD.—For pur-  
20               poses of this subparagraph, the term ‘ap-  
21               plicable period’ means, with respect to any  
22               interest in a partnership, the shorter of the  
23               3-taxable-year period immediately pre-  
24               ceding the taxable year of the sale or ex-  
25               change or the controlled foreign corpora-

1           tion’s holding period in the interest. In no  
2           event shall the applicable period include  
3           any portion of any taxable year beginning  
4           before the applicable date (as defined in  
5           section 300 of the Infrastructure 2.0 Act).

6           “(B) 25-PERCENT OWNER.—For purposes  
7           of this paragraph, the term ‘25-percent owner’  
8           means a controlled foreign corporation which  
9           owns directly 25 percent or more of the capital  
10          or profits interest in a partnership. For pur-  
11          poses of the preceding sentence, if a controlled  
12          foreign corporation is a shareholder or partner  
13          of a corporation or a partnership, the controlled  
14          foreign corporation shall be treated as owning  
15          directly its proportionate share of any capital or  
16          profits interest in any partnership held directly  
17          or indirectly by such corporation or partnership.  
18          If a controlled foreign corporation is treated as  
19          owning a capital or profits interest in a part-  
20          nership under constructive ownership rules  
21          similar to the rules of section 958(b), the con-  
22          trolled foreign corporation shall be treated as  
23          owning such interest directly for purposes of  
24          this subparagraph.

25          “(c) TREATMENT OF INSURANCE INCOME.—

1           “(1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the term ‘active foreign  
3           market income’ shall not include the insurance in-  
4           come (as defined in section 955(a)) of a controlled  
5           foreign corporation.

6           “(2) ACTIVE FOREIGN MARKET INCOME IN-  
7           CLUDES EXEMPT INSURANCE INCOME.—The term  
8           ‘active foreign market income’ shall include exempt  
9           insurance income (as defined in section 955(c)) shall  
10          be treated as active foreign market income.

11          “(d) TREATMENT OF INCOME FROM PROPERTY  
12          USED, CONSUMED, OR DISPOSED OF IN THE UNITED  
13          STATES.—For purposes of subsection (a)(2)(A)—

14                 “(1) IN GENERAL.—The term ‘active foreign  
15                 market income’ shall not include income derived in  
16                 connection with property which is sold, exchanged,  
17                 or otherwise disposed of to any person if it was rea-  
18                 sonable for the controlled foreign corporation (or a  
19                 related person) to expect that—

20                         “(A) such property would be used, con-  
21                         sumed, or disposed of in the United States, or

22                         “(B) such property would be used in the  
23                         manufacture or production of, or as a compo-  
24                         nent part in, other property which would be

1           used, consumed, or disposed of in the United  
2           States.

3           “(2) CHAIN OF RELATED PERSONS.—If—

4                   “(A) property is ultimately used, con-  
5                   sumed, or disposed of as described in subpara-  
6                   graph (A) or (B) of paragraph (1), and

7                   “(B) all sales, exchanges, or dispositions of  
8                   such property (or of the other property de-  
9                   scribed in paragraph (1)(B)) before the sale for  
10                  use, consumption, or disposition in the United  
11                  States are between related persons,

12           then, for purposes of paragraph (1), there shall be  
13           deemed to have been a reasonable expectation that  
14           the property (or the other property described in  
15           paragraph (1)(B)) would be used, consumed, or dis-  
16           posed of in the United States.

17           “(3) EXCEPTION FOR PROPERTY SUBSE-  
18           QUENTLY EXPORTED.—Paragraphs (1) and (2) shall  
19           not apply with respect to property which, after entry  
20           into the United States is—

21                   “(A) sold, leased, rented, or licensed by the  
22                   controlled foreign corporation or a related per-  
23                   son for direct use, consumption, or disposition  
24                   outside the United States, or

1           “(B) used by the controlled foreign cor-  
2           poration or a related person as a component in  
3           other property which is so sold, leased, rented,  
4           or licensed.

5           “(4) RELATED PERSON DEFINED.—For pur-  
6           poses of this subsection, the term ‘related person’  
7           has the meaning given such term under section  
8           954(b).

9           “(e) ECONOMICALLY SIGNIFICANT ACTIVITIES.—For  
10          purposes of this section, the term ‘economically significant  
11          activities’ means, with respect to any item of income, ac-  
12          tivities—

13           “(1) performed outside the United States,

14           “(2) performed by officers or employees of the  
15          controlled foreign corporation which are part of the  
16          management and operational functions of the cor-  
17          poration, and

18           “(3) which make a substantial contribution to  
19          the production of such item of income.

20          “(f) QUALIFIED TRADE OR BUSINESS.—For pur-  
21          poses of this section—

22           “(1) IN GENERAL.—The term ‘qualified trade  
23          or business’ means any trade or business which con-  
24          sists of—

1           “(A) manufacturing, producing, growing,  
2           or extracting property outside of the United  
3           States, or

4           “(B) providing services outside of the  
5           United States.

6           “(2) SPECIAL RULE FOR SUBSTANTIAL CON-  
7           TRIBUTIONS TO MANUFACTURING AND SERVICES.—  
8           If a trade or business consists of making a substan-  
9           tial contribution through the activities of the officers  
10          and employees of the controlled foreign corporation  
11          to a qualified trade or business which is described in  
12          subparagraph (A) or (B) of paragraph (1) of an-  
13          other person, then the trade or business shall be  
14          treated as a qualified trade or business described in  
15          subparagraph (A) or (B) of paragraph (1), which-  
16          ever is applicable.

17 **“SEC. 954. DEFINITION OF PASSIVE INCOME.**

18          “(a) PASSIVE INCOME.—

19                 “(1) IN GENERAL.—For purposes of this part,  
20                 the term ‘passive income’ means the portion of the  
21                 gross income which consists of:

22                         “(A) DIVIDENDS, ETC.—Dividends, inter-  
23                         est, royalties, rents, and annuities.

1           “(B) CERTAIN PROPERTY TRANS-  
2 ACTIONS.—The excess of gains over losses from  
3 the sale or exchange of property—

4           “(i) which gives rise to income de-  
5 scribed in subparagraph (A) (after applica-  
6 tion of paragraph (2)(A)) other than prop-  
7 erty which gives rise to income not treated  
8 as passive income by reason of subsection  
9 (c) or (d) for the taxable year,

10           “(ii) which is an interest in a trust,  
11 partnership, or REMIC, or

12           “(iii) which does not give rise to any  
13 income.

14 Gains and losses from the sale or exchange of  
15 any property which, in the hands of the con-  
16 trolled foreign corporation, is property de-  
17 scribed in section 1221(a)(1) shall not be taken  
18 into account under this subparagraph.

19           “(C) COMMODITIES TRANSACTIONS.—The  
20 excess of gains over losses from transactions  
21 (including futures, forward, and similar trans-  
22 actions) in any commodities. This subparagraph  
23 shall not apply to gains or losses which—

1           “(i) arise out of commodity hedging  
2           transactions (as defined in paragraph  
3           (5)(A)),

4           “(ii) are active business gains or  
5           losses from the sale of commodities, but  
6           only if substantially all of the controlled  
7           foreign corporation’s commodities are  
8           property described in paragraph (1), (2),  
9           or (8) of section 1221(a), or

10           “(iii) are foreign currency gains or  
11           losses (as defined in section 988(b)) attrib-  
12           utable to any section 988 transactions.

13           “(D) FOREIGN CURRENCY GAINS.—The ex-  
14           cess of foreign currency gains over foreign cur-  
15           rency losses (as defined in section 988(b)) at-  
16           tributable to any section 988 transactions. This  
17           subparagraph shall not apply in the case of any  
18           transaction, other than a borrowing, directly re-  
19           lated to the business needs of the controlled for-  
20           eign corporation.

21           “(E) INCOME EQUIVALENT TO INTER-  
22           EST.—Any income equivalent to interest, in-  
23           cluding income from commitment fees (or simi-  
24           lar amounts) for loans actually made.

1           “(F) INCOME FROM NOTIONAL PRINCIPAL  
2           CONTRACTS.—

3                   “(i) IN GENERAL.—Net income from  
4                   notional principal contracts.

5                   “(ii) COORDINATION WITH OTHER  
6                   CATEGORIES OF PASSIVE INCOME.—Any  
7                   item of income, gain, deduction, or loss  
8                   from a notional principal contract entered  
9                   into for purposes of hedging any item de-  
10                  scribed in any preceding subparagraph  
11                  shall not be taken into account for pur-  
12                  poses of this subparagraph but shall be  
13                  taken into account under such other sub-  
14                  paragraph.

15                  “(G) PAYMENTS IN LIEU OF DIVIDENDS.—  
16                  Payments in lieu of dividends which are made  
17                  pursuant to an agreement to which section  
18                  1058 applies.

19                  “(H) PERSONAL SERVICE CONTRACTS.—

20                         “(i) Amounts received under a con-  
21                         tract under which the corporation is to fur-  
22                         nish personal services if—

23                                 “(I) some person other than the  
24                                 corporation has the right to designate  
25                                 (by name or by description) the indi-

1                   vidual who is to perform the services,  
2                   or

3                   “(II) the individual who is to per-  
4                   form the services is designated (by  
5                   name or by description) in the con-  
6                   tract, and

7                   “(ii) amounts received from the sale  
8                   or other disposition of such a contract.

9                   This subparagraph shall apply with respect to  
10                  amounts received for services under a particular  
11                  contract only if at some time during the taxable  
12                  year 25 percent or more in value of the out-  
13                  standing stock of the corporation is owned, di-  
14                  rectly or indirectly, by or for the individual who  
15                  has performed, is to perform, or may be des-  
16                  ignated (by name or by description) as the one  
17                  to perform, such services.

18                  “(2) EXCEPTION FOR CERTAIN AMOUNTS.—

19                  “(A) RENTS AND ROYALTIES DERIVED IN  
20                  ACTIVE BUSINESS.—Passive income shall not  
21                  include rents and royalties which are derived in  
22                  the active conduct of a trade or business and  
23                  which are received from a person other than a  
24                  related person. For purposes of the preceding  
25                  sentence, rents derived from leasing an aircraft

1 or vessel in foreign commerce shall not fail to  
2 be treated as derived in the active conduct of a  
3 trade or business if, as determined under regu-  
4 lations prescribed by the Secretary, the active  
5 leasing expenses are not less than 10 percent of  
6 the profit on the lease.

7 “(B) EXCEPTION FOR DEALERS.—Except  
8 as provided by regulations, in the case of a reg-  
9 ular dealer in property which is property de-  
10 scribed in paragraph (1)(B), forward contracts,  
11 option contracts, or similar financial instru-  
12 ments (including notional principal contracts  
13 and all instruments referenced to commodities),  
14 there shall not be taken into account in com-  
15 puting passive income any item of income, gain,  
16 deduction, or loss from any transaction (includ-  
17 ing hedging transactions and transactions in-  
18 volving physical settlement) entered into in the  
19 ordinary course of such dealer’s trade or busi-  
20 ness as such a dealer.

21 “(3) LOOK-THRU RULE FOR CERTAIN PARTNER-  
22 SHIP SALES.—

23 “(A) IN GENERAL.—In the case of any  
24 sale or exchange by a controlled foreign cor-  
25 poration of an interest in a partnership with re-

1 spect to which such corporation is a 25-percent  
2 owner, gain or loss on such sale shall be treated  
3 as being described in paragraph (1)(B)(ii) in  
4 the amount which bears the same ratio to the  
5 amount of such gain or loss as the controlled  
6 foreign corporation's distributable share of pas-  
7 sive income from the partnership over the appli-  
8 cable period (as defined in section  
9 953(b)(4)(A)(ii)) bears to the controlled foreign  
10 corporation's distributable share of gross in-  
11 come from the partnership over such period.  
12 The Secretary shall prescribe such regulations  
13 as may be appropriate to prevent abuse of the  
14 purposes of this paragraph, including regula-  
15 tions providing for the coordination of this  
16 paragraph with the provisions of subchapter K.

17 “(B) 25-PERCENT OWNER.—For purposes  
18 of this paragraph, the term ‘25-percent owner’  
19 has the meaning given such term under section  
20 953(b)(4)(B).

21 “(4) DEFINITION AND SPECIAL RULES RELAT-  
22 ING TO COMMODITY TRANSACTIONS.—

23 “(A) COMMODITY HEDGING TRANS-  
24 ACTIONS.—For purposes of paragraph  
25 (1)(C)(i), the term ‘commodity hedging trans-

1           action’ means any transaction with respect to a  
2           commodity if such transaction—

3                   “(i) is a hedging transaction as de-  
4                   fined in section 1221(b)(2), determined—

5                           “(I) without regard to subpara-  
6                           graph (A)(ii) thereof,

7                           “(II) by applying subparagraph  
8                           (A)(i) thereof by substituting ‘ordi-  
9                           nary property or property described in  
10                          section 1231(b)’ for ‘ordinary prop-  
11                          erty’, and

12                          “(III) by substituting ‘controlled  
13                          foreign corporation’ for ‘taxpayer’  
14                          each place it appears, and

15                          “(ii) is clearly identified as such in ac-  
16                          cordance with section 1221(a)(7).

17                          “(B) TREATMENT OF DEALER ACTIVITIES  
18                          UNDER PARAGRAPH (1)(C).—Commodities with  
19                          respect to which gains and losses are not taken  
20                          into account under paragraph (2)(B) in com-  
21                          puting a controlled foreign corporation’s passive  
22                          income shall not be taken into account in apply-  
23                          ing the substantially all test under paragraph  
24                          (1)(C)(ii) to such corporation.

1           “(C) REGULATIONS.—The Secretary shall  
2           prescribe such regulations as are appropriate to  
3           carry out the purposes of paragraph (1)(C) in  
4           the case of transactions involving related per-  
5           sons.

6           “(b) RELATED PERSON DEFINED.—For purposes of  
7 this section, a person is a related person with respect to  
8 a controlled foreign corporation, if—

9           “(1) such person is an individual, corporation,  
10          partnership, trust, or estate which controls, or is  
11          controlled by, the controlled foreign corporation, or

12          “(2) such person is a corporation, partnership,  
13          trust, or estate which is controlled by the same per-  
14          son or persons which control the controlled foreign  
15          corporation.

16 For purposes of the preceding sentence, control means,  
17 with respect to a corporation, the ownership, directly or  
18 indirectly, of stock possessing more than 50 percent of the  
19 total voting power of all classes of stock entitled to vote  
20 or of the total value of stock of such corporation. In the  
21 case of a partnership, trust, or estate, control means the  
22 ownership, directly or indirectly, of more than 50 percent  
23 (by value) of the beneficial interests in such partnership,  
24 trust, or estate. For purposes of this subsection, rules  
25 similar to the rules of section 958 shall apply.

1       “(c) SPECIAL RULE FOR INCOME DERIVED IN THE  
2 ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR  
3 BUSINESSES.—

4           “(1) IN GENERAL.—For purposes of subsection  
5 (a)(1), passive income shall not include qualified  
6 banking or financing income of an eligible controlled  
7 foreign corporation.

8           “(2) ELIGIBLE CONTROLLED FOREIGN COR-  
9 PORATION.—For purposes of this subsection, the  
10 term ‘eligible controlled foreign corporation’ means  
11 any controlled foreign corporation if—

12           “(A) more than 80 percent of the gross in-  
13 come of the controlled foreign corporation is de-  
14 rived directly from the active and regular con-  
15 duct of a lending, finance, or financial services  
16 business from transactions with customers  
17 which are located outside the United States and  
18 are not related persons, or

19           “(B) it is a regulated financial institution.

20           “(3) QUALIFIED BANKING OR FINANCING IN-  
21 COME.—For purposes of this subsection—

22           “(A) IN GENERAL.—The term ‘qualified  
23 banking or financing income’ means income of  
24 an eligible controlled foreign corporation  
25 which—

1           “(i) is derived in the active conduct of  
2           a banking, financing, or similar business  
3           by such eligible controlled foreign corpora-  
4           tion,

5           “(ii) is derived from one or more  
6           transactions—

7                   “(I) with customers located in a  
8                   country other than the United States,  
9                   and

10                   “(II) substantially all of the ac-  
11                   tivities in connection with which are  
12                   conducted directly by the corporation  
13                   in its home country, and

14           “(iii) is treated as earned by such cor-  
15           poration in its home country for purposes  
16           of such country’s tax laws.

17           “(B) INCOME DERIVED FROM CUSTOMERS  
18           TO INCLUDE CERTAIN INVESTMENT INCOME.—

19           For purposes of subparagraph (A), in the case  
20           of a regulated financial institution, income de-  
21           rived from customers includes income derived  
22           from—

23                   “(i) reserves that are required to be  
24                   held pursuant to banking regulations,

1           “(ii) deposits placed with the central  
2           bank (or equivalent thereof) in the cor-  
3           poration’s home country, and

4           “(iii) investments in debt instruments  
5           issued by the home country.

6           “(C) SUBSTANTIAL ACTIVITY REQUIRE-  
7           MENT FOR CROSS BORDER INCOME.—The term  
8           ‘qualified banking or financing income’ shall  
9           not include income derived from 1 or more  
10          transactions with customers located in a coun-  
11          try other than the home country of the eligible  
12          controlled foreign corporation unless such cor-  
13          poration conducts substantial activity with re-  
14          spect to a banking, financing, or similar busi-  
15          ness in its home country.

16          “(D) DIRECT CONDUCT OF ACTIVITIES.—  
17          For purposes of subparagraph (A)(ii)(II), an  
18          activity shall be treated as conducted directly by  
19          an eligible controlled foreign corporation in its  
20          home country if the activity is performed by  
21          employees of a related person and—

22                 “(i) the related person is a resident  
23                 subject to tax under the laws of the home  
24                 country of the corporation to which sub-  
25                 paragraph (A)(ii)(II) is being applied,

1           “(ii) the activity is performed in such  
2           home country, and

3           “(iii) the related person is com-  
4           pensated on an arm’s-length basis for the  
5           performance of the activity by its employ-  
6           ees and such compensation is treated as  
7           earned by such person in such home coun-  
8           try for purposes of the home country’s tax  
9           laws.

10           “(4) LENDING, FINANCE, OR FINANCIAL SERV-  
11           ICES BUSINESS.—For purposes of this subsection,  
12           except as provided in regulations, the term ‘lending,  
13           finance, or financial services business’ means the  
14           business of—

15           “(A) making loans,

16           “(B) purchasing, selling, discounting, or  
17           negotiating on a regular basis accounts receiv-  
18           able, notes, or installment obligations,

19           “(C) engaging in leasing (including enter-  
20           ing into leases and purchasing, servicing, and  
21           disposing of leases and leased assets),

22           “(D) issuing letters of credit or providing  
23           guarantees,

24           “(E) providing charge and credit card  
25           services,

1           “(F) performing trust services, including  
2           as a fiduciary, agent, or custodian, other than  
3           trust services provided by a broker or dealer in  
4           stock, securities, or other financial instruments,

5           “(G) arranging interest rate or currency  
6           futures, forwards, options, or notional principal  
7           contracts for, or entering into such transactions  
8           with, customers,

9           “(H) providing traveler’s check and money  
10          order services for customers,

11          “(I) providing correspondent bank services  
12          for customers,

13          “(J) engaging in hedging activities directly  
14          related to an activity described in any other  
15          subparagraph of this paragraph,

16          “(K) underwriting issues of stock, debt, or  
17          other securities for customers,

18          “(L) providing financial, investment advi-  
19          sory, or investment management services,

20          “(M) purchasing or selling stock, debt in-  
21          struments, interest rate or currency futures, or  
22          other securities or derivative financial products  
23          (including notional principal contracts) from or  
24          to customers and holding such stock, debt in-  
25          struments, futures, or other securities or prod-

1           ucts as inventory for sale to customers, unless  
2           such stock, debt instruments, futures, or other  
3           securities or products are not held in a dealer  
4           capacity,

5           “(N) effecting transactions in securities for  
6           customers as a securities broker, or

7           “(O) rendering services or making facilities  
8           available in connection with activities described  
9           in subparagraphs (A) through (N) carried on  
10          by—

11           “(i) the corporation rendering services  
12           or making facilities available, or

13           “(ii) another corporation which is a  
14           member of the same affiliated group (as  
15           defined in section 1504, but determined  
16           without regard to section 1504(b)(3)).

17          “(5) OTHER DEFINITIONS.—For purposes of  
18          this subsection—

19           “(A) CUSTOMER.—The term ‘customer’  
20           means, with respect to any controlled foreign  
21           corporation, any person which has a customer  
22           relationship with such corporation and which is  
23           acting in its capacity as such.

24           “(B) HOME COUNTRY.—Except as pro-  
25           vided in regulations, the term ‘home country’

1 means, with respect to any entity, the country  
2 with respect to which the entity is a resident for  
3 purposes of the country's income tax laws.

4 “(C) LOCATED.—Except as provided in  
5 regulations, for purposes of paragraph (3)(A)—

6 “(i) if a customer is a natural person,  
7 the customer is considered to be located in  
8 the country in which the customer is phys-  
9 ically located when entering into the trans-  
10 action, and

11 “(ii) if a customer is not a natural  
12 person, the customer is considered to be lo-  
13 cated in the country from which the cus-  
14 tomer enters into the transaction.

15 “(D) QUALIFIED BUSINESS UNIT.—The  
16 term ‘qualified business unit’ has the meaning  
17 given such term by section 989(a).

18 “(E) REGULATED FINANCIAL INSTITU-  
19 TION.—Except as provided in regulations, the  
20 term ‘regulated financial institution’ means a  
21 controlled foreign corporation which—

22 “(i) is engaged in the active conduct  
23 of a banking business and is an institution  
24 licensed to do business as a bank in the  
25 United States (or is any other corporation

1 not so licensed which is specified by the  
2 Secretary in regulations), or

3 “(ii) satisfies each of the following  
4 conditions:

5 “(I) The corporation is directly  
6 or indirectly wholly owned by a do-  
7 mestic corporation that is a bank (as  
8 defined in section 581) or a depository  
9 institution holding company (as de-  
10 fined in section 3(w)(1) of the Federal  
11 Deposit Insurance Act (12 U.S.C.  
12 1813(w)(1))).

13 “(II) The corporation is subject  
14 to bank regulatory supervision in a ju-  
15 risdiction the central bank of which  
16 (or equivalent thereof) is a member of  
17 the Basel Committee on Banking Su-  
18 pervision.

19 “(III) The corporation is licensed  
20 and regulated in such jurisdiction as a  
21 bank.

22 “(6) SEPARATE APPLICATION TO QUALIFIED  
23 BUSINESS UNITS.—

1           “(A) IN GENERAL.—If a controlled foreign  
2 corporation has 1 or more qualified business  
3 units—

4           “(i) this subsection shall be applied  
5 separately to each such unit in the same  
6 manner as if it were a controlled foreign  
7 corporation, and

8           “(ii) if any such unit is treated as an  
9 eligible controlled foreign corporation after  
10 application of clause (i), the qualified  
11 banking or financing income of such unit  
12 shall be treated as qualified banking or fi-  
13 nancing income of the controlled foreign  
14 corporation of which such unit is a part.

15           “(B) DETERMINATIONS MADE SEPA-  
16 RATELY.—For purposes of the separate applica-  
17 tion of this subsection to a controlled foreign  
18 corporation and its qualified business units—

19           “(i) in the case of the controlled for-  
20 eign corporation, only activities and items  
21 of income, deduction, gain, or loss and ac-  
22 tivities of such corporation not properly al-  
23 locable or attributable to any qualified  
24 business unit of such corporation shall be  
25 taken into account, and

1           “(ii) in the case of a qualified busi-  
2           ness unit, only activities and items of in-  
3           come, deduction, gain, or loss and activities  
4           properly allocable or attributable to such  
5           unit shall be taken into account.

6           “(C) HOME COUNTRY.—For purposes of  
7           this subsection, except as provided in regula-  
8           tions, notwithstanding paragraph (5)(B), the  
9           home country with respect to any qualified  
10          business unit treated as a controlled foreign  
11          corporation under subparagraph (A) shall be  
12          the country in which such unit maintains its  
13          principal office.

14          “(7) ANTI-ABUSE RULES.—For purposes of ap-  
15          plying this subsection—

16                 “(A) there shall be disregarded any item of  
17                 income, gain, loss, or deduction with respect to  
18                 any transaction or series of transactions one of  
19                 the principal purposes of which is qualifying in-  
20                 come or gain for the exclusion under this sec-  
21                 tion, including any transaction or series of  
22                 transactions a principal purpose of which is the  
23                 acceleration or deferral of any item in order to  
24                 claim the benefits of such exclusion through the  
25                 application of this subsection,

1           “(B) there shall be disregarded any item of  
2 income, gain, loss, or deduction of an entity  
3 which is not engaged in regular and continuous  
4 transactions with customers which are not re-  
5 lated persons,

6           “(C) there shall be disregarded any item of  
7 income, gain, loss, or deduction with respect to  
8 any transaction or series of transactions uti-  
9 lizing, or doing business with—

10           “(i) one or more entities in order to  
11 satisfy any home country requirement  
12 under this subsection, or

13           “(ii) a special purpose entity or ar-  
14 rangement, including a securitization, fi-  
15 nancing, or similar entity or arrangement,  
16 if one of the principal purposes of such trans-  
17 action or series of transactions is qualifying in-  
18 come or gain for the exclusion under this sub-  
19 section, and

20           “(D) a related person, an officer, a direc-  
21 tor, or an employee with respect to any con-  
22 trolled foreign corporation which would other-  
23 wise be treated as a customer of such corpora-  
24 tion with respect to any transaction shall not be  
25 so treated if a principal purpose of such trans-

1           action is to satisfy any requirement of this sub-  
2           section.

3           “(8) REGULATIONS.—The Secretary shall pre-  
4           scribe such regulations as may be necessary or ap-  
5           propriate to carry out the purposes of this sub-  
6           section and subsection (a)(1)(B)(i).

7           “(d) SPECIAL RULE FOR INCOME DERIVED IN THE  
8 ACTIVE CONDUCT OF INSURANCE BUSINESS.—

9           “(1) IN GENERAL.—For purposes of subsection  
10          (a)(1), passive income shall not include qualified in-  
11          surance income of a qualifying insurance company.

12          “(2) QUALIFIED INSURANCE INCOME.—For  
13          purposes of this subsection, the term ‘qualified in-  
14          surance income’ means income of a qualifying insur-  
15          ance company which is—

16                 “(A) received from a person other than a  
17                 related person and derived from the invest-  
18                 ments made by a qualifying insurance company  
19                 or a qualifying insurance company branch of its  
20                 reserves allocable to exempt contracts or of 80  
21                 percent of its unearned premiums from exempt  
22                 contracts (as both are determined in the man-  
23                 ner prescribed under paragraph (4)), or

24                 “(B) received from a person other than a  
25                 related person and derived from investments

1 made by a qualifying insurance company or a  
2 qualifying insurance company branch of an  
3 amount of its assets allocable to exempt con-  
4 tracts equal to—

5 “(i) in the case of property, casualty,  
6 or health insurance contracts, one-third of  
7 its premiums earned on such insurance  
8 contracts during the taxable year (as de-  
9 fined in section 832(b)(4)), and

10 “(ii) in the case of life insurance or  
11 annuity contracts, 10 percent of the re-  
12 serves described in subparagraph (A) for  
13 such contracts.

14 “(3) PRINCIPLES FOR DETERMINING QUALI-  
15 FIED INSURANCE INCOME.—Except as provided by  
16 the Secretary, for purposes of subparagraphs (A)  
17 and (B) of paragraph (2)—

18 “(A) in the case of any contract which is  
19 a separate account-type contract (including any  
20 variable contract not meeting the requirements  
21 of section 817), income credited under such  
22 contract shall be allocable only to such contract,  
23 and

1           “(B) income not allocable under subpara-  
2           graph (A) shall be allocated ratably among con-  
3           tracts not described in subparagraph (A).

4           “(4) METHODS FOR DETERMINING UNEARNED  
5           PREMIUMS AND RESERVES.—For purposes of para-  
6           graph (2)(A)—

7           “(A) PROPERTY AND CASUALTY CON-  
8           TRACTS.—The unearned premiums and reserves  
9           of a qualifying insurance company or a quali-  
10          fying insurance company branch with respect to  
11          property, casualty, or health insurance con-  
12          tracts shall be determined using the same meth-  
13          ods and interest rates which would be used if  
14          such company or branch were subject to tax  
15          under subchapter L, except that—

16                 “(i) the interest rate determined for  
17                 the functional currency of the company or  
18                 branch, and which, except as provided by  
19                 the Secretary, is calculated in the same  
20                 manner as the Federal mid-term rate  
21                 under section 1274(d), shall be substituted  
22                 for the applicable Federal interest rate,  
23                 and

1           “(ii) such company or branch shall  
2           use the appropriate foreign loss payment  
3           pattern.

4           “(B) LIFE INSURANCE AND ANNUITY CON-  
5           TRACTS.—

6           “(i) IN GENERAL.—Except as pro-  
7           vided in clause (ii), the amount of the re-  
8           serve of a qualifying insurance company or  
9           qualifying insurance company branch for  
10          any life insurance or annuity contract shall  
11          be equal to the greater of—

12                   “(I) the net surrender value of  
13                   such contract (as defined in section  
14                   807(e)(1)(A)), or

15                   “(II) the reserve determined  
16                   under paragraph (5).

17          “(ii) RULING REQUEST, ETC.—The  
18          amount of the reserve under clause (i)  
19          shall be the foreign statement reserve for  
20          the contract (less any catastrophe, defi-  
21          ciency, equalization, or similar reserves), if,  
22          pursuant to a ruling request submitted by  
23          the taxpayer or as provided in published  
24          guidance, the Secretary determines that  
25          the factors taken into account in deter-

1           mining the foreign statement reserve pro-  
2           vide an appropriate means of measuring  
3           income.

4           “(C) LIMITATION ON RESERVES.—In no  
5           event shall the reserve determined under this  
6           paragraph for any contract as of any time ex-  
7           ceed the amount which would be taken into ac-  
8           count with respect to such contract as of such  
9           time in determining foreign statement reserves  
10          (less any catastrophe, deficiency, equalization,  
11          or similar reserves).

12          “(5) AMOUNT OF RESERVE.—The amount of  
13          the reserve determined under this paragraph with  
14          respect to any contract shall be determined in the  
15          same manner as it would be determined if the quali-  
16          fying insurance company or qualifying insurance  
17          company branch were subject to tax under sub-  
18          chapter L, except that in applying such sub-  
19          chapter—

20                 “(A) the interest rate determined for the  
21                 functional currency of the company or branch,  
22                 and which, except as provided by the Secretary,  
23                 is calculated in the same manner as the Federal  
24                 mid-term rate under section 1274(d), shall be

1 substituted for the applicable Federal interest  
2 rate,

3 “(B) the highest assumed interest rate  
4 permitted to be used in determining foreign  
5 statement reserves shall be substituted for the  
6 prevailing State assumed interest rate, and

7 “(C) tables for mortality and morbidity  
8 which reasonably reflect the current mortality  
9 and morbidity risks in the company’s or  
10 branch’s home country shall be substituted for  
11 the mortality and morbidity tables otherwise  
12 used for such subchapter.

13 The Secretary may provide that the interest rate  
14 and mortality and morbidity tables of a qualifying  
15 insurance company may be used for 1 or more of its  
16 qualifying insurance company branches when appro-  
17 priate.

18 “(6) DEFINITIONS.—For purposes of this sec-  
19 tion, any term used in this subsection which is also  
20 used in section 955(c) shall have the meaning given  
21 such term under section 955(c).

22 **“SEC. 955. DEFINITION OF INSURANCE INCOME.**

23 “(a) INSURANCE INCOME.—

1           “(1) IN GENERAL.—For purposes of section  
2           953(c), the term ‘insurance income’ means the gross  
3           income which—

4                   “(A) is attributable to the issuing (or rein-  
5                   suring) of an insurance or annuity contract,  
6                   and

7                   “(B) is of a kind that would be subject to  
8                   tax under subchapter L of this chapter if such  
9                   income were the income of a domestic insurance  
10                  company.

11           “(2) EXCEPTION.—Such term shall not include  
12           any exempt insurance income (as defined in sub-  
13           section (c)).

14           “(b) SPECIAL RULES FOR DETERMINATION OF  
15           GROSS INCOME AND ALLOCABLE DEDUCTIONS.—For  
16           purposes of determining gross income under subsection (a)  
17           and deductions allocable to insurance income under sec-  
18           tion 952(e), the following rules shall apply:

19                   “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—  
20                   The following provisions of subchapter L shall not  
21                   apply:

22                           “(A) The small life insurance company de-  
23                           duction.

24                           “(B) Section 805(a)(5) (relating to oper-  
25                           ations loss deduction).

1           “(C) Section 832(c)(5) (relating to certain  
2 capital losses).

3           “(2) SPECIAL RULES FOR AMOUNTS INCLUDED  
4 IN INCOME.—The items referred to in—

5           “(A) section 803(a)(1) (relating to gross  
6 amount of premiums and other considerations),

7           “(B) section 803(a)(2) (relating to net de-  
8 crease in reserves),

9           “(C) section 805(a)(2) (relating to net in-  
10 crease in reserves), and

11           “(D) section 832(b)(4) (relating to pre-  
12 miums earned on insurance contracts),

13 shall be taken into account only to the extent they  
14 are in respect of any reinsurance or the issuing of  
15 any insurance or annuity contract described in sub-  
16 section (a)(1).

17           “(3) TREATMENT OF RESERVES.—Reserves for  
18 any insurance or annuity contract shall be deter-  
19 mined in the same manner as under section 954(d).

20           “(c) EXEMPT INSURANCE INCOME.—For purposes of  
21 this section—

22           “(1) EXEMPT INSURANCE INCOME DEFINED.—

23           “(A) IN GENERAL.—The term ‘exempt in-  
24 surance income’ means income derived by a  
25 qualifying insurance company which—

1           “(i) is attributable to the issuing (or  
2           reinsuring) of an exempt contract by such  
3           company or a qualifying insurance com-  
4           pany branch of such company, and

5           “(ii) is treated as earned by such com-  
6           pany or branch in its home country for  
7           purposes of such country’s tax laws.

8           “(B) EXCEPTION FOR CERTAIN ARRANGE-  
9           MENTS.—Such term shall not include income  
10          attributable to the issuing (or reinsuring) of an  
11          exempt contract as the result of any arrange-  
12          ment whereby another corporation receives a  
13          substantially equal amount of premiums or  
14          other consideration in respect of issuing (or re-  
15          insuring) a contract which is not an exempt  
16          contract.

17          “(C) DETERMINATIONS MADE SEPA-  
18          RATELY.—For purposes of this subsection and  
19          section 954(d), the exempt insurance income  
20          and exempt contracts of a qualifying insurance  
21          company or any qualifying insurance company  
22          branch of such company shall be determined  
23          separately for such company and each such  
24          branch by taking into account—

1           “(i) in the case of the qualifying in-  
2           surance company, only items of income, de-  
3           duction, gain, or loss, and activities of such  
4           company not properly allocable or attrib-  
5           utable to any qualifying insurance com-  
6           pany branch of such company, and

7           “(ii) in the case of a qualifying insur-  
8           ance company branch, only items of in-  
9           come, deduction, gain, or loss and activities  
10          properly allocable or attributable to such  
11          branch.

12          “(2) EXEMPT CONTRACT.—

13               “(A) IN GENERAL.—The term ‘exempt  
14               contract’ means an insurance or annuity con-  
15               tract issued or reinsured by a qualifying insur-  
16               ance company or qualifying insurance company  
17               branch in connection with property in, liability  
18               arising out of activity in, or the lives or health  
19               of residents of, a country other than the United  
20               States.

21               “(B) MINIMUM NON-RELATED INCOME RE-  
22               QUIRED.—No contract of a qualifying insurance  
23               company or of a qualifying insurance company  
24               branch shall be treated as an exempt contract  
25               unless such company or branch derives more

1 than 30 percent of its net written premiums  
2 from exempt contracts (determined without re-  
3 gard to this subparagraph) with respect to  
4 which no policyholder, insured, annuitant, or  
5 beneficiary is a related person (as defined in  
6 section 954(b)).

7 “(C) SUBSTANTIAL ACTIVITY REQUIRE-  
8 MENTS.—A contract issued by a qualifying in-  
9 surance company or qualifying insurance com-  
10 pany branch shall not be treated as an exempt  
11 contract unless such company or branch, as the  
12 case may be—

13 “(i) conducts substantial activity with  
14 respect to an insurance business in its  
15 home country, and

16 “(ii) performs in its home country  
17 substantially all of the activities necessary  
18 to give rise to the income generated by  
19 such contract.

20 “(3) QUALIFYING INSURANCE COMPANY.—

21 “(A) IN GENERAL.—The term ‘qualifying  
22 insurance company’ means any controlled for-  
23 eign corporation—

24 “(i) which—

1                   “(I) is subject to regulation as an  
2                   insurance (or reinsurance) company  
3                   by its home country, and is licensed,  
4                   authorized, or regulated by the appli-  
5                   cable insurance regulatory body for its  
6                   home country to sell insurance, rein-  
7                   surance, or annuity contracts to per-  
8                   sons other than related persons (with-  
9                   in the meaning of section 954(b)) in  
10                  such home country, and

11                  “(II) is engaged in the insurance  
12                  business and would be subject to tax  
13                  under subchapter L if it were a do-  
14                  mestic corporation,

15                  “(ii) which derives more than 50 per-  
16                  cent of its aggregate net written premiums  
17                  from the issuance or reinsurance by such  
18                  controlled foreign corporation and each of  
19                  its qualifying insurance company branches  
20                  of contracts with respect to which no pol-  
21                  icyholder, insured, annuitant, or bene-  
22                  ficiary is a related person (as defined in  
23                  section 954(b)), except that in the case of  
24                  a branch, such premiums shall only be  
25                  taken into account to the extent such pre-

1           miums are treated as earned by such  
2           branch in its home country for purposes of  
3           such country's tax laws,

4           “(iii) more than 50 percent of the  
5           gross receipts of which for the taxable  
6           year—

7                   “(I) consist of premiums for in-  
8                   surance or reinsurance in connection  
9                   with property, liability, or the lives or  
10                   health of individuals, and

11                   “(II) are treated as earned by  
12                   such controlled foreign corporation in  
13                   its home country for purposes of such  
14                   country's tax laws, and

15           “(iv) the applicable insurance liabil-  
16           ities of which constitute more than 35 per-  
17           cent of its total assets as reported on the  
18           company's applicable financial statement  
19           for the year with which or in which the  
20           taxable year ends.

21           “(B) APPLICABLE INSURANCE LIABIL-  
22           ITIES.—For purposes of subparagraph (A)(iv),  
23           the term ‘applicable insurance liabilities’  
24           means—

1           “(i) loss and loss adjustment ex-  
2           penses,

3           “(ii) unearned premiums, and

4           “(iii) reserves (other than any catas-  
5           trophe, deficiency, equalization, or similar  
6           reserves) for life and health insurance risks  
7           and life and health insurance claims with  
8           respect to contracts providing coverage for  
9           mortality or morbidity risks (not to exceed  
10          the amount of such reserve that is required  
11          to be reported to the home country insur-  
12          ance regulatory body).

13          “(C) APPLICABLE FINANCIAL STATE-  
14          MENT.—For purposes of subparagraph (A)(iv),  
15          the term ‘applicable financial statement’ means  
16          a statement for financial reporting purposes  
17          which—

18                 “(i) is made on the basis of generally  
19                 accepted accounting principles,

20                 “(ii) is made on the basis of inter-  
21                 national financial reporting standards, but  
22                 only if there is no statement that meets  
23                 the requirement of clause (i), or

24                 “(iii) except as otherwise provided by  
25                 the Secretary in regulations, is the annual

1 statement which is required to be filed  
2 with the home country insurance regu-  
3 latory body, but only if there is no state-  
4 ment which meets the requirements of  
5 clause (i) or (ii).

6 “(D) REGULATIONS.—The Secretary shall  
7 prescribe such regulations as necessary to carry  
8 out the purposes of this paragraph.

9 “(4) QUALIFYING INSURANCE COMPANY  
10 BRANCH.—The term ‘qualifying insurance company  
11 branch’ means a qualified business unit (within the  
12 meaning of section 989(a)) of a controlled foreign  
13 corporation if—

14 “(A) such unit is licensed, authorized, or  
15 regulated by the applicable insurance regulatory  
16 body for its home country to sell insurance, re-  
17 insurance, or annuity contracts to persons other  
18 than related persons (within the meaning of  
19 section 954(b)) in such home country, and

20 “(B) such controlled foreign corporation is  
21 a qualifying insurance company, determined  
22 under paragraph (3) as if such unit were a  
23 qualifying insurance company branch.

24 “(5) LIFE INSURANCE OR ANNUITY CON-  
25 TRACT.—For purposes of this section and section

1 954, the determination of whether a contract issued  
2 by a controlled foreign corporation or a qualifying  
3 insurance company branch is a life insurance con-  
4 tract or an annuity contract shall be made without  
5 regard to sections 72(s), 101(f), 817(h), and 7702  
6 if—

7 “(A) such contract is regulated as a life in-  
8 surance or annuity contract by the corpora-  
9 tion’s or branch’s home country, and

10 “(B) no policyholder, insured, annuitant,  
11 or beneficiary with respect to the contract is a  
12 United States person.

13 “(6) HOME COUNTRY.—For purposes of this  
14 subsection, except as provided in regulations—

15 “(A) CONTROLLED FOREIGN CORPORA-  
16 TION.—The term ‘home country’ means, with  
17 respect to a controlled foreign corporation, the  
18 country in which such corporation is created or  
19 organized.

20 “(B) QUALIFYING INSURANCE COMPANY  
21 BRANCH.—The term ‘home country’ means,  
22 with respect to a qualifying insurance company  
23 branch, the country in which the principal office  
24 of such branch is located and in which such  
25 branch is licensed, authorized, or regulated by

1 the applicable insurance regulatory body to sell  
2 insurance, reinsurance, or annuity contracts to  
3 persons other than related persons (as defined  
4 in section 954(b)) in such country.

5 “(7) ANTI-ABUSE RULES.—For purposes of ap-  
6 plying this subsection and section 954(d)—

7 “(A) the rules of section 954(c)(7) (other  
8 than subparagraph (B) thereof) shall apply,

9 “(B) there shall be disregarded any item of  
10 income, gain, loss, or deduction of, or derived  
11 from, an entity which is not engaged in regular  
12 and continuous transactions with persons which  
13 are not related persons,

14 “(C) there shall be disregarded any change  
15 in the method of computing reserves a principal  
16 purpose of which is the acceleration or deferral  
17 of any item in order to claim the benefits of  
18 this subsection or section 954(d),

19 “(D) a contract of insurance or reinsur-  
20 ance shall not be treated as an exempt contract  
21 (and premiums from such contract shall not be  
22 taken into account for purposes of paragraph  
23 (2)(B) or (3)) if—

24 “(i) any policyholder, insured, annu-  
25 itant, or beneficiary is a resident of the

1 United States and such contract was mar-  
2 keted to such resident and was written to  
3 cover a risk outside the United States, or

4 “(ii) the contract covers risks located  
5 within and without the United States and  
6 the qualifying insurance company or quali-  
7 fying insurance company branch does not  
8 maintain such contemporaneous records,  
9 and file such reports, with respect to such  
10 contract as the Secretary may require,

11 “(E) the Secretary may prescribe rules for  
12 the allocation of contracts (and income from  
13 contracts) among 2 or more qualifying insur-  
14 ance company branches of a qualifying insur-  
15 ance company in order to clearly reflect the in-  
16 come of such branches, and

17 “(F) premiums from a contract shall not  
18 be taken into account for purposes of para-  
19 graph (2)(B) or (3) if such contract reinsures  
20 a contract issued or reinsured by a related per-  
21 son (as defined in section 954(b)).

22 “(8) COORDINATION WITH SECTION 956(a).—

23 “(A) IN GENERAL.—In determining insur-  
24 ance income for purposes of section 956(a), ex-  
25 empt insurance income shall not include income

1 derived from exempt contracts which cover risks  
2 other than applicable home country risks.

3 “(B) APPLICABLE HOME COUNTRY  
4 RISKS.—For purposes of subparagraph (A), the  
5 term ‘applicable home country risks’ means  
6 risks in connection with property in, liability  
7 arising out of activity in, or the lives or health  
8 of residents of, the home country of the quali-  
9 fying insurance company or qualifying insur-  
10 ance company branch, as the case may be,  
11 issuing or reinsuring the contract covering the  
12 risks.

13 “(9) REGULATIONS.—The Secretary shall pre-  
14 scribe such regulations as may be necessary or ap-  
15 propriate to carry out the purposes of this sub-  
16 section and section 954(d).

17 “(10) CROSS REFERENCE.—For treatment of  
18 certain investment income derived by qualifying in-  
19 surance companies, see section 954(d).

20 **“SEC. 956. SPECIAL RULE FOR CERTAIN CAPTIVE INSUR-**  
21 **ANCE COMPANIES.**

22 “(a) TREATMENT AS CONTROLLED FOREIGN COR-  
23 PORATIONS AND UNITED STATES SHAREHOLDERS.—

24 “(1) IN GENERAL.—For purposes only of tak-  
25 ing into account related person insurance income—

1           “(A) the term ‘United States shareholder’  
2 means, with respect to any foreign corporation,  
3 a United States person (as defined in section  
4 957(c)) who owns (within the meaning of sec-  
5 tion 958(a)) any stock of the foreign corpora-  
6 tion,

7           “(B) the term ‘controlled foreign corpora-  
8 tion’ has the meaning given to such term by  
9 section 957(a) determined by substituting ‘25  
10 percent or more’ for ‘more than 50 percent’,  
11 and

12           “(C) the pro rata share referred to in sec-  
13 tion 951(a)(1) shall be determined under para-  
14 graph (5) of this subsection.

15           “(2) RELATED PERSON INSURANCE INCOME.—  
16 For purposes of this subsection, the term ‘related  
17 person insurance income’ means any insurance in-  
18 come (within the meaning of section 955(a)) attrib-  
19 utable to a policy of insurance or reinsurance with  
20 respect to which the person (directly or indirectly)  
21 insured is a United States shareholder in the foreign  
22 corporation or a related person to such a share-  
23 holder.

24           “(3) EXCEPTIONS.—

1           “(A) CORPORATIONS NOT HELD BY IN-  
2           SURED.—Paragraph (1) shall not apply to any  
3           foreign corporation if at all times during the  
4           taxable year of such foreign corporation—

5                   “(i) less than 20 percent of the total  
6                   combined voting power of all classes of  
7                   stock of such corporation entitled to vote,  
8                   and

9                   “(ii) less than 20 percent of the total  
10                  value of such corporation,

11           is owned (directly or indirectly under the prin-  
12           ciples of section 883(c)(4)) by persons who are  
13           (directly or indirectly) insured under any policy  
14           of insurance or reinsurance issued by such cor-  
15           poration or who are related persons to any such  
16           person.

17           “(B) DE MINIMIS EXCEPTION.—Paragraph  
18           (1) shall not apply to any foreign corporation  
19           for a taxable year of such corporation if the re-  
20           lated person insurance income (determined on a  
21           gross basis) of such corporation for such tax-  
22           able year is less than 20 percent of its insur-  
23           ance income (as so determined) for such taxable  
24           year.

1           “(C) ELECTION TO TREAT INCOME AS EF-  
2           FECTIVELY CONNECTED.—Paragraph (1) shall  
3           not apply to any foreign corporation for any  
4           taxable year if—

5                   “(i) such corporation elects (at such  
6                   time and in such manner as the Secretary  
7                   may prescribe)—

8                           “(I) to treat its related person in-  
9                           surance income for such taxable year  
10                          as income effectively connected with  
11                          the conduct of a trade or business in  
12                          the United States, and

13                           “(II) to waive all benefits (other  
14                          than with respect to section 884) with  
15                          respect to related person insurance in-  
16                          come granted by the United States  
17                          under any treaty between the United  
18                          States and any foreign country, and

19                          “(ii) such corporation meets such re-  
20                          quirements as the Secretary shall prescribe  
21                          to ensure that the tax imposed by this  
22                          chapter on such income is paid.

23           An election under this subparagraph made for  
24           any taxable year shall not be effective if the  
25           corporation (or any predecessor thereof) was a

1 disqualified corporation for the taxable year for  
2 which the election was made or for any prior  
3 taxable year beginning after 1986.

4 “(D) SPECIAL RULES FOR SUBPARAGRAPH  
5 (C).—

6 “(i) PERIOD DURING WHICH ELEC-  
7 TION IN EFFECT.—

8 “(I) IN GENERAL.—Except as  
9 provided in subclause (II), any elec-  
10 tion under subparagraph (C) shall  
11 apply to the taxable year for which  
12 made and all subsequent taxable years  
13 unless revoked with the consent of the  
14 Secretary.

15 “(II) TERMINATION.—If a for-  
16 eign corporation which made an elec-  
17 tion under subparagraph (C) for any  
18 taxable year is a disqualified corpora-  
19 tion for any subsequent taxable year,  
20 such election shall not apply to any  
21 taxable year beginning after such sub-  
22 sequent taxable year.

23 “(ii) EXEMPTION FROM TAX IMPOSED  
24 BY SECTION 4371.—The tax imposed by  
25 section 4371 shall not apply with respect

1 to any related person insurance income  
2 treated as effectively connected with the  
3 conduct of a trade or business within the  
4 United States under subparagraph (C).

5 “(E) DISQUALIFIED CORPORATION.—For  
6 purposes of this paragraph the term ‘disquali-  
7 fied corporation’ means, with respect to any  
8 taxable year, any foreign corporation which is a  
9 controlled foreign corporation at any time dur-  
10 ing such taxable year (determined without re-  
11 gard to this subsection) but only if a United  
12 States shareholder (determined without regard  
13 to this subsection) owns (within the meaning of  
14 section 958(a)) stock in such corporation at  
15 some time during such taxable year.

16 “(4) TREATMENT OF MUTUAL INSURANCE COM-  
17 PANIES.—In the case of a mutual insurance com-  
18 pany—

19 “(A) this subsection shall apply,

20 “(B) policyholders of such company shall  
21 be treated as shareholders, and

22 “(C) appropriate adjustments in the appli-  
23 cation of this subpart shall be made under reg-  
24 ulations prescribed by the Secretary.

25 “(5) DETERMINATION OF PRO RATA SHARE.—

1           “(A) IN GENERAL.—The pro rata share  
2 determined under this paragraph for any  
3 United States shareholder is the lesser of—

4           “(i) the amount which would be deter-  
5 mined under paragraph (2) of section  
6 951(a) if—

7           “(I) only related person insur-  
8 ance income were taken into account,

9           “(II) stock owned (within the  
10 meaning of section 958(a)) by United  
11 States shareholders on the last day of  
12 the taxable year were the only stock  
13 in the foreign corporation, and

14           “(III) only distributions received  
15 by United States shareholders were  
16 taken into account under subpara-  
17 graph (B) of such paragraph (2), or

18           “(ii) the amount which would be de-  
19 termined under paragraph (2) of section  
20 951(a) if the entire earnings and profits of  
21 the foreign corporation for the taxable year  
22 were subpart F income.

23           “(B) COORDINATION WITH OTHER PROVI-  
24 SIONS.—The Secretary shall prescribe regula-  
25 tions providing for such modifications to the

1 provisions of this subpart as may be necessary  
2 or appropriate by reason of subparagraph (A).

3 “(6) RELATED PERSON.—For purposes of this  
4 subsection—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), the term ‘related person’ has  
7 the meaning given such term by section 954(b).

8 “(B) TREATMENT OF CERTAIN LIABILITY  
9 INSURANCE POLICIES.—In the case of any poli-  
10 icy of insurance covering liability arising from  
11 services performed as a director, officer, or em-  
12 ployee of a corporation or as a partner or em-  
13 ployee of a partnership, the person performing  
14 such services and the entity for which such  
15 services are performed shall be treated as re-  
16 lated persons.

17 “(7) REGULATIONS.—The Secretary shall pre-  
18 scribe such regulations as may be necessary to carry  
19 out the purposes of this subsection, including—

20 “(A) regulations preventing the avoidance  
21 of this subsection through cross insurance ar-  
22 rangements or otherwise, and

23 “(B) regulations which may provide that a  
24 person will not be treated as a United States  
25 shareholder under paragraph (1) with respect

1 to any foreign corporation if neither such per-  
2 son (nor any related person to such person) is  
3 (directly or indirectly) insured under any policy  
4 of insurance or reinsurance issued by such for-  
5 eign corporation.

6 “(b) ELECTION BY FOREIGN INSURANCE COMPANY  
7 TO BE TREATED AS DOMESTIC CORPORATION.—

8 “(1) IN GENERAL.—If—

9 “(A) a foreign corporation is a controlled  
10 foreign corporation (as defined in section  
11 957(a) by substituting ‘25 percent or more’ for  
12 ‘more than 50 percent’ and by using the defini-  
13 tion of United States shareholder under sub-  
14 section (a)(1)(B)),

15 “(B) such foreign corporation would qual-  
16 ify under part I or II of subchapter L for the  
17 taxable year if it were a domestic corporation,

18 “(C) such foreign corporation meets such  
19 requirements as the Secretary shall prescribe to  
20 ensure that the taxes imposed by this chapter  
21 on such foreign corporation are paid, and

22 “(D) such foreign corporation makes an  
23 election to have this paragraph apply and  
24 waives all benefits to such corporation granted  
25 by the United States under any treaty,

1 for purposes of this title, such corporation shall be  
2 treated as a domestic corporation.

3 “(2) PERIOD DURING WHICH ELECTION IS IN  
4 EFFECT.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), an election under paragraph  
7 (1) shall apply to the taxable year for which  
8 made and all subsequent taxable years unless  
9 revoked with the consent of the Secretary.

10 “(B) TERMINATION.—If a corporation  
11 which made an election under paragraph (1) for  
12 any taxable year fails to meet the requirements  
13 of subparagraphs (A), (B), and (C) of para-  
14 graph (1) for any subsequent taxable year, such  
15 election shall not apply to any taxable year be-  
16 ginning after such subsequent taxable year.

17 “(3) EFFECT OF ELECTION.—

18 “(A) IN GENERAL.—For purposes of sec-  
19 tion 367, any foreign corporation making an  
20 election under paragraph (1) shall be treated as  
21 transferring (as of the 1st day of the 1st tax-  
22 able year to which such election applies) all of  
23 its assets to a domestic corporation in connec-  
24 tion with an exchange to which section 354 ap-  
25 plies.

1           “(B) EXCEPTION FOR PRE-1988 EARNINGS  
2           AND PROFITS.—

3           “(i) IN GENERAL.—Earnings and  
4           profits of the foreign corporation accumu-  
5           lated in taxable years beginning before  
6           January 1, 1988, shall not be included in  
7           the gross income of the persons holding  
8           stock in such corporation by reason of sub-  
9           paragraph (A).

10          “(ii) TREATMENT OF DISTRIBU-  
11          TIONS.—For purposes of this title, any dis-  
12          tribution made by a corporation to which  
13          an election under paragraph (1) applies  
14          out of earnings and profits accumulated in  
15          taxable years beginning before January 1,  
16          1988, shall be treated as a distribution  
17          made by a foreign corporation.

18          “(iii) CERTAIN RULES TO CONTINUE  
19          TO APPLY TO PRE-1988 EARNINGS.—Sec-  
20          tion 884 to the extent the foreign corpora-  
21          tion reinvested 1987 earnings and profits  
22          in United States assets shall be applied  
23          without regard to paragraph (1), except  
24          that, in the case of a corporation to which  
25          an election under paragraph (1) applies,

1           only earnings and profits accumulated in  
2           taxable years beginning before January 1,  
3           1988, shall be taken into account.

4           “(4) EFFECT OF TERMINATION.—For purposes  
5           of section 367, if—

6                   “(A) an election is made by a corporation  
7                   under paragraph (1) for any taxable year, and

8                   “(B) such election ceases to apply for any  
9                   subsequent taxable year,

10           such corporation shall be treated as a domestic cor-  
11           poration transferring (as of the 1st day of such sub-  
12           sequent taxable year) all of its property to a foreign  
13           corporation in connection with an exchange to which  
14           section 354 applies.

15           “(5) ADDITIONAL TAX ON CORPORATION MAK-  
16           ING ELECTION.—

17                   “(A) IN GENERAL.—If a corporation  
18                   makes an election under paragraph (1), the  
19                   amount of tax imposed by this chapter for the  
20                   1st taxable year to which such election applies  
21                   shall be increased by the amount determined  
22                   under subparagraph (B).

23                   “(B) AMOUNT OF TAX.—The amount of  
24                   tax determined under this paragraph shall be  
25                   equal to the lesser of—

1                   “(i)  $\frac{3}{4}$  of 1 percent of the aggregate  
2                   amount of capital and accumulated surplus  
3                   of the corporation as of December 31,  
4                   1987, or  
5                   “(ii) \$1,500,000.”.

6           (b) TREATMENT OF CERTAIN EXCLUDED SUBPART  
7 F INCOME AS PREVIOUSLY TAXED INCOME.—Section  
8 959(g), as added by section 331, is amended to read as  
9 follows:

10           “(g) SPECIAL RULES FOR NONTAXED PORTION OF  
11 CERTAIN INCOME.—For purposes of this section—

12                   “(1) IN GENERAL.—A United States share-  
13                   holder’s pro rata share of the excludable portion of  
14                   the controlled foreign corporation’s subpart F in-  
15                   come shall be treated as an amount which has been  
16                   included in gross income under section 951(a).

17                   “(2) ORDERING RULE.—Notwithstanding sub-  
18                   section (c), for purposes of subsections (a) and (b),  
19                   section 316(a) shall be applied by applying para-  
20                   graph (2) thereof and then paragraph (1) thereof—

21                           “(A) first to the deductible portion (as de-  
22                           fined in section 966(c)(3)) of the increase in  
23                           subpart F income described in section  
24                           966(a)(1) included in the gross income of  
25                           United States shareholders under section

1           951(a)(1) (after application of section  
2           965(b)(2)(A)),

3           “(B) second to the excludable portion of  
4           the controlled foreign corporation’s subpart F  
5           income, and

6           “(C) then to the amounts described in  
7           paragraph (1), (2), or (3) of subsection (c) in  
8           accordance with the provisions of subsection (c).

9           “(3) DEFINITIONS.—For purposes of this sub-  
10          section—

11           “(A) DEDUCTIBLE PORTION.—The term  
12           ‘deductible portion’ has the meaning given such  
13           term by section 966(e)(3).

14           “(B) EXCLUDABLE PORTION.—The term  
15           ‘excludable portion’ means, with respect to the  
16           subpart F income of a controlled foreign cor-  
17           poration, so much of such controlled foreign  
18           corporation’s modified active income as is not  
19           taken into account in computing subpart F in-  
20           come under section 952(a)(1).”.

21          (c) GAINS AND LOSSES FROM THE SALE OF CFC  
22          STOCK.—

23           (1) GAINS.—

1 (A) IN GENERAL.—Part I of subchapter P  
2 of chapter 1 is amended by adding at the end  
3 the following new section:

4 **“SEC. 1203. GAINS FROM SALES OR EXCHANGES OF STOCK**  
5 **IN CONTROLLED FOREIGN CORPORATIONS.**

6 “(a) IN GENERAL.—In the case of a United States  
7 shareholder (as defined in section 951), there shall be ex-  
8 cluded from gross income an amount equal to the applica-  
9 ble portion of the amount of any gain recognized from the  
10 sale or exchange of stock in a controlled foreign corpora-  
11 tion.

12 “(b) APPLICABLE PORTION.—For purposes of this  
13 section—

14 “(1) IN GENERAL.—The term ‘applicable por-  
15 tion’ means the amount which bears the same ratio  
16 to the gain recognized from such sale or exchange  
17 as—

18 “(A) the shareholder’s pro rata share (de-  
19 termined under section 951(a)(2)) of the ex-  
20 cludable portion of the aggregate subpart F in-  
21 come of the controlled foreign corporation for  
22 the applicable period, bears to

23 “(B) the sum of the amount determined  
24 under subparagraph (A) plus the shareholder’s  
25 pro rata share (determined under section



1 **“SEC. 1213. LOSSES FROM SALES OR EXCHANGES OF STOCK**  
2 **IN CONTROLLED FOREIGN CORPORATIONS.**

3 “(a) **IN GENERAL.**—In the case of a United States  
4 shareholder (as defined in section 951), any loss from the  
5 sale or exchange of stock in a controlled foreign corpora-  
6 tion shall be reduced (but not below zero) by an amount  
7 equal to the shareholder’s aggregate pro rata share (deter-  
8 mined under section 951(a)(2)) of the excludable portion  
9 of the subpart F income of the controlled foreign corpora-  
10 tion during the shareholder’s holding period in the stock.

11 “(b) **EXCLUDABLE PORTION.**—For purposes of this  
12 section, the term ‘excludable portion’ has the meaning  
13 given such term by section 959(g)(3)(B).”.

14 (B) **CLERICAL AMENDMENT.**—The table of  
15 sections for part I of subchapter P of chapter  
16 1 is amended by adding at the end the following  
17 new item:

“Sec. 1213. Losses from sales or exchanges of stock in controlled foreign cor-  
porations.”.

18 (d) **REPEAL OF ORDINARY INCOME TREATMENT FOR**  
19 **GAINS FROM THE SALE OF STOCK IN CERTAIN FOREIGN**  
20 **CORPORATIONS.**—

21 (1) **IN GENERAL.**—Part IV of subchapter P of  
22 chapter 1 is amended by striking section 1248.

23 (2) **CONFORMING AMENDMENTS.**—

1 (A) Section 245(a) is amended by striking  
2 paragraph (11).

3 (B) Section 338(h) is amended—  
4 (i) in paragraph (6)(B)(ii), by striking  
5 “or described in section 1248(e)”, and  
6 (ii) in paragraph (16), by striking the  
7 second sentence.

8 (C) Section 751 is amended—  
9 (i) in subsection (c), by striking  
10 “stock in certain foreign corporations (as  
11 described in section 1248),”, and  
12 (ii) by striking subsection (e) and re-  
13 designating subsection (f) as subsection  
14 (e).

15 (D) Section 865(k) is amended to read as  
16 follows:

17 “(k) CROSS REFERENCE.—For sourcing of income  
18 from certain foreign currency transactions, see section  
19 988.”.

20 (E) Section 904(h)(7) is amended by strik-  
21 ing “or as a dividend under section 1248”.

22 (F) Section 951(a)(2) is amended by strik-  
23 ing the last sentence thereof.

24 (G) Section 964 is amended by striking  
25 subsection (e).

1 (H) Section 989(b) is amended by striking  
2 paragraph (2) and by redesignating paragraphs  
3 (3) and (4) as paragraphs (2) and (3), respec-  
4 tively.

5 (e) COORDINATION WITH AMOUNTS INCLUDED IN  
6 GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

7 (1) IN GENERAL.—Paragraph (1) of section  
8 951(a) is amended by striking “such taxable year of  
9 the corporation ends—” and all that follows through  
10 the end period and inserting: “such taxable year of  
11 the corporation ends, the shareholder’s pro rata  
12 share (determined under paragraph (2)) of the cor-  
13 poration’s subpart F income for such taxable year.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 951(a) is amended—

16 (i) by striking “paragraph (1)(A)(i)”  
17 in paragraph (2) and inserting “paragraph  
18 (1)”, and

19 (ii) by striking paragraph (3).

20 (B) Subparagraph (A) of section  
21 512(b)(17) is amended by striking  
22 “951(a)(1)(A)” and inserting “951(a)(1)”.

23 (C) Section 851(b) is amended by striking  
24 “951(a)(1)(A)(i)” in the first sentence following  
25 paragraph (3) and inserting “951(a)(1)”.

1 (D) Section 959(a) is amended—

2 (i) by striking “shall not, when” and  
3 all that follows through “such shareholder”  
4 and inserting “shall not, when actually dis-  
5 tributed to such shareholder”, and

6 (ii) by striking “and the rules of sub-  
7 section (f) shall apply for purposes of para-  
8 graph (2) of this subsection”.

9 (E) Section 959(c) is amended by adding  
10 at the end the following: “References in this  
11 subsection and subsection (f) to section  
12 951(a)(1)(B) shall be treated as references to  
13 such provisions as in effect on the day before  
14 the enactment of the Infrastructure 2.0 Act.”.

15 (F) Section 959(e) is amended by striking  
16 “951(a)(1)(A)” and inserting “951(a)(1)”.

17 (G) Section 989(b)(3) is amended by strik-  
18 ing “951(a)(1)(A)” and inserting “951(a)(1)”.

19 (H) Section 1298(b) is amended by strik-  
20 ing paragraph (8).

21 (f) APPLICATION OF ANTI-LOSS IMPORTATION  
22 RULES.—Section 362(e)(1)(B) is amended by adding at  
23 the end the following new sentence: “For purposes of  
24 clause (i), except as provided under regulations, a con-

1 trolled foreign corporation shall be considered to be sub-  
2 ject to tax under this subtitle.”.

3 (g) OTHER CONFORMING AMENDMENTS.—

4 (1) Sections 163(e)(3)(B)(i) and  
5 267(a)(3)(B)(i) are each amended by striking “and  
6 qualified deficits under section 952(c)(1)(B)” and  
7 inserting “and loss carryforwards under sections  
8 952(d) and 953(b)”.

9 (2) Section 304(b)(5)(B)(ii) is amended by  
10 striking “953(c)” and inserting “956(a)”.

11 (3) Section 355(g)(2)(B)(ii)(I) is amended by  
12 striking “section 954(h)(4)” and inserting “section  
13 954(c)(4)”.

14 (4) Section 512(b)(17) is amended by striking  
15 “953” and inserting “section 955”.

16 (5) Section 864(d)(8) is amended by striking  
17 “or section 956(b)(3)”.

18 (6) Section 864(d)(5)(A) is amended—

19 (A) by striking clause (iii) and redesignig-  
20 nating clause (iv) as clause (iii), and

21 (B) by striking “954(c)(3)(A)” in clause  
22 (iii) (as redesignated by subparagraph (A)) and  
23 inserting “954(a)(3)(A)”.

24 (7) Section 864(d)(7)(B) is amended by strik-  
25 ing “foreign base company income (as defined in

1 section 954(a), determined without regard to section  
2 954(b)(3)(A))” and inserting “passive income (as  
3 defined in section 954(a))”.

4 (8) Section 881(c)(5)(A)(iii) is amended by  
5 striking “954(c)(3)(A)” and inserting  
6 “954(a)(3)(A)”.

7 (9) Section 884(d)(2)(D) is amended by strik-  
8 ing “953(c)(3)(C)” and inserting “956(a)(3)(C)”.

9 (10) Section 898(b)(3) is amended—

10 (A) by striking “953(c)(2)” and inserting  
11 “956(a)(2)”, and

12 (B) by striking “953(c)(1)” and inserting  
13 “956(a)(1)”.

14 (11) Section 936(h)(5) is amended—

15 (A) by inserting “(as in effect on the day  
16 before the enactment of the Infrastructure 2.0  
17 Act)” after “section 954” in the last sentence  
18 of subparagraph (B)(ii), and

19 (B) in subparagraph (F)(iv)(II)—

20 (i) by inserting “(as in effect on the  
21 day before the enactment of the Infrastruc-  
22 ture 2.0 Act)” after “section 954”, and

23 (ii) by inserting “(as so in effect)”  
24 after “section 954(a)”.

25 (12) Section 957(b) is amended—

1 (A) by striking “income described in sec-  
2 tion 953(a)” and inserting “income described in  
3 section 955(a)”, and

4 (B) by striking “contracts described in sec-  
5 tion 953(a)(1)” and inserting “contracts de-  
6 scribed in section 955(a)(1)”.

7 (13) Section 958(b) is amended—

8 (A) by striking “956(c)(2),” before “and  
9 957”,

10 (B) by striking “to treat the stock of a do-  
11 mestic corporation as owned by a United States  
12 shareholder of the controlled foreign corpora-  
13 tion for purposes of section 956(c)(2),” and

14 (C) by striking the last sentence.

15 (14) Section 964(b) is amended by striking  
16 “sections 952, 955, and 956” and inserting “section  
17 952”.

18 (15) Section 964(e)(2) is amended by striking  
19 “954(e)(3)(A)” and inserting “954(a)(3)(A)”.

20 (16)(A) Part III of subchapter N of chapter 1  
21 is amended by striking subpart G.

22 (B) Section 865(e)(2)(A) is amended by strik-  
23 ing the last sentence.

1 (C) The table of subparts for part III of sub-  
2 chapter N of chapter 1 is amended by striking the  
3 item relating to subpart G.

4 (17) Section 999(c) is amended—

5 (A) by striking “, 952(a)(3)” in paragraph  
6 (1), and

7 (B) by striking “, the addition to subpart  
8 F income under section 952(a)(3),” in para-  
9 graph (2).

10 (18) Section 1296(f)(2) is amended—

11 (A) by striking “foreign personal holding  
12 company income described in section  
13 954(c)(1)(A)” in subparagraph (A) and insert-  
14 ing “passive income (as defined in section  
15 954(a))”, and

16 (B) by striking “foreign personal holding  
17 company income so described” in subparagraph  
18 (B) and inserting “such passive income”.

19 (19) Section 1297(b) is amended to read as fol-  
20 lows:

21 “(b) PASSIVE INCOME.—

22 “(1) IN GENERAL.—Except as provided in para-  
23 graph (2), the term ‘passive income’ means any in-  
24 come received or accrued by any foreign corporation  
25 which is of a kind which would be passive income as

1 defined in section 954 if the foreign corporation  
2 were a controlled foreign corporation.

3 “(2) EXCEPTION.—Except as provided in regu-  
4 lations, the term ‘passive income’ does not include  
5 any income which is interest, a dividend, or a rent  
6 or royalty, which is received or accrued from a re-  
7 lated person (within the meaning of section 954(b))  
8 to the extent that such amount is properly allocable  
9 (under regulations prescribed by the Secretary) to  
10 income of such related person which is not passive  
11 income.”.

12 (20) The following sections are amended by  
13 striking “954(d)(3)” each place it appears and in-  
14 serting “954(b)”:

15 (A) Section 958(b).

16 (B) Section 988(a)(3)(C).

17 (C) Subsections (d)(3)(A) and (e)(2)(B)(i)  
18 of section 1298.

19 (D) Section 1471(e)(2).

20 (E) Section 3121(z)(2).

21 (21) The table of sections for subpart F of part  
22 III of subchapter N of chapter 1 is amended by  
23 striking the items relating to sections 952 through  
24 956 and inserting the following:

“Sec. 952. Subpart F income defined.

“Sec. 953. Active foreign market income.

“Sec. 954. Definition of passive income.

“Sec. 955. Definition of insurance income.

“Sec. 956. Special rule for certain captive insurance companies.”.

1 (h) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-  
 3 graph (2), the amendments made by this section  
 4 shall apply to taxable years of foreign corporations  
 5 beginning on or after the applicable date, and to tax-  
 6 able years of United States shareholders with or  
 7 within which such taxable years of foreign corpora-  
 8 tions end.

9 (2) GAINS AND LOSSES FROM THE SALE OF CFC  
 10 STOCK; REPEAL OF SECTION 1248.—The amend-  
 11 ments made by subsections (c) and (d) shall apply  
 12 to sales or exchanges on or after the applicable date.

13 **SEC. 302. DEEMED REPATRIATION UPON TRANSITION TO**  
 14 **FALLBACK INTERNATIONAL TAX REFORM.**

15 (a) IN GENERAL.—Subpart F of part III of sub-  
 16 chapter N of chapter 1 of the Internal Revenue Code of  
 17 1986 is amended by adding at the end the following new  
 18 section:

19 **“SEC. 966. DEEMED REPATRIATION UPON TRANSITION TO**  
 20 **FALLBACK INTERNATIONAL TAX REFORM.**

21 “(a) TREATMENT OF DEFERRED FOREIGN INCOME  
 22 AS SUBPART F INCOME.—In the case of the last taxable  
 23 year of a deferred foreign income corporation which begins  
 24 before the applicable date (as defined in section 300 of

1 the Infrastructure 2.0 Act), the subpart F income of such  
 2 foreign corporation (as otherwise determined for such tax-  
 3 able year under section 952) shall be increased by the in-  
 4 clusion percentage (as defined in section 952(d) as in ef-  
 5 fect for taxable years beginning on or after the applicable  
 6 date (as so defined))) of the accumulated post-1986 de-  
 7 ferred foreign income of such corporation determined as  
 8 of the close of such last taxable year.

9 “(b) APPLICATION OF CERTAIN RULES.—Rules simi-  
 10 lar to the rules of subsections (b), (f), (g), (i), and (j)  
 11 of section 965 shall apply for purposes of this section.

12 “(c) DEFINITIONS.—Terms used in this section  
 13 which are also used in section 965 shall have the same  
 14 meanings when used in this section as when such terms  
 15 are used in section 965.”.

16 (b) CLERICAL AMENDMENT.—The table of sections  
 17 for subpart F of part III of subchapter N of chapter 1  
 18 of such Code is amended by adding at the end the fol-  
 19 lowing:

“Sec. 966. Deemed repatriation upon transition to fallback international tax re-  
 form.”.

## 20 **PART II—FOREIGN TAX CREDIT LIMITATIONS**

### 21 **SEC. 311. REFORM OF FOREIGN TAX CREDIT LIMITATION.**

22 (a) IN GENERAL.—Subsection (d) of section 904 is  
 23 amended to read as follows:

1       “(d) SEPARATE APPLICATION OF SECTION WITH RE-  
2 SPECT TO CERTAIN CATEGORIES OF INCOME.—

3           “(1) IN GENERAL.—The provisions of sub-  
4 sections (a), (b), and (c) and sections 907 and 960  
5 shall be applied separately with respect to—

6           “(A) amounts included under section  
7 951(a) which are attributable to active foreign  
8 market income (as defined in section 953),

9           “(B) passive category income, and

10          “(C) income other than income described  
11 in either of the preceding subparagraphs.

12       “(2) DEFINITIONS AND SPECIAL RULES.—

13           “(A) PASSIVE CATEGORY INCOME.—

14           “(i) IN GENERAL.—The term ‘passive  
15 category income’ means—

16           “(I) United States taxpayer pas-  
17 sive income described in subparagraph  
18 (B), and

19           “(II) income which is included in  
20 gross income of the taxpayer under  
21 section 951(a)(1) to the extent such  
22 income is attributable to passive in-  
23 come (as defined in section 954(a)).

1           “(ii) EXCEPTION FOR HIGH-TAXED  
2 INCOME.—Passive category income shall  
3 not include any high-taxed income.

4           “(iii) CLARIFICATION OF APPLICATION  
5 OF SECTION 864(d)(6).—In determining  
6 whether any income is passive category in-  
7 come, the rules of section 864(d)(6) shall  
8 apply only in the case of income of a con-  
9 trolled foreign corporation.

10          “(B) UNITED STATES TAXPAYER PASSIVE  
11 INCOME.—United States taxpayer passive in-  
12 come described in this subparagraph is income  
13 received or accrued by the taxpayer which is of  
14 a kind that would be passive income as defined  
15 under section 954(a) if such taxpayer were a  
16 controlled foreign corporation.

17          “(C) TREATMENT OF FINANCIAL SERVICES  
18 INCOME AND COMPANIES.—

19           “(i) IN GENERAL.—Financial services  
20 income which is not active foreign market  
21 category income shall be treated as income  
22 described in paragraph (1)(C) in the case  
23 of—

24                   “(I) a member of a financial  
25 services group, and

1           “(II) any other person if such  
2           person is predominantly engaged in  
3           the active conduct of a banking, insur-  
4           ance, financing, or similar business.

5           “(ii) FINANCIAL SERVICES GROUP.—  
6           The term ‘financial services group’ means  
7           any affiliated group (as defined in section  
8           1504(a) without regard to paragraphs (2)  
9           and (3) of section 1504(b)) which is pre-  
10          dominantly engaged in the active conduct  
11          of a banking, insurance, financing, or simi-  
12          lar business. In determining whether such  
13          a group is so engaged, there shall be taken  
14          into account only the income of members  
15          of the group that are—

16                 “(I) United States corporations,  
17                 or

18                 “(II) controlled foreign corpora-  
19                 tions in which such United States cor-  
20                 porations own, directly or indirectly,  
21                 at least 80 percent of the total voting  
22                 power and value of the stock.

23                 “(iii) PASS-THRU ENTITIES.—The  
24                 Secretary shall by regulation specify for  
25                 purposes of this subparagraph the treat-

1           ment of financial services income received  
2           or accrued by partnerships and by other  
3           pass-thru entities which are not members  
4           of a financial services group.

5           “(D) FINANCIAL SERVICES INCOME.—

6                   “(i) IN GENERAL.—Except as other-  
7                   wise provided in this subparagraph, the  
8                   term ‘financial services income’ means any  
9                   income which is received or accrued by any  
10                  person predominantly engaged in the active  
11                  conduct of a banking, insurance, financing,  
12                  or similar business, and which is—

13                           “(I) described in clause (ii), or

14                                   “(II) United States taxpayer pas-  
15                                   sive income (determined without re-  
16                                   gard to subparagraph (A)(ii)).

17                   “(ii) GENERAL DESCRIPTION OF FI-  
18                   NANCIAL SERVICES INCOME.—Income is  
19                   described in this clause if such income is—

20                           “(I) derived in the active conduct  
21                           of a banking, financing, or similar  
22                           business,

23                                   “(II) derived from the investment  
24                                   by an insurance company of its un-  
25                                   earned premiums or reserves ordinary

1 and necessary for the proper conduct  
2 of its insurance business, or

3 “(III) of a kind which would be  
4 insurance income as defined in section  
5 955(a).

6 “(E) HIGH-TAXED INCOME.—The term  
7 ‘high-taxed income’ means any income which  
8 (but for this subparagraph) would be passive  
9 category income if the sum of—

10 “(i) the foreign income taxes paid or  
11 accrued by the taxpayer with respect to  
12 such income, and

13 “(ii) the foreign income taxes deemed  
14 paid by the taxpayer with respect to such  
15 income under section 960,

16 exceeds the highest rate of tax specified in sec-  
17 tion 1 or 11 (whichever applies) multiplied by  
18 the amount of such income (determined with re-  
19 gard to section 78). For purposes of the pre-  
20 ceeding sentence, the term ‘foreign income taxes’  
21 means any income, war profits, or excess profits  
22 tax imposed by any foreign country or posses-  
23 sion of the United States.

24 “(F) TREATMENT OF INCOME TAX BASE  
25 DIFFERENCES.—

1           “(i) IN GENERAL.—In the case of tax-  
2           able years beginning after December 31,  
3           2006, tax imposed under the law of a for-  
4           eign country or possession of the United  
5           States on an amount which does not con-  
6           stitute income under United States tax  
7           principles shall be treated as imposed on  
8           income described in paragraph (1)(C).

9           “(ii) SPECIAL RULES FOR YEARS  
10          AFTER 2006 AND BEFORE THE APPLICABLE  
11          DATE.—In the case of taxable years begin-  
12          ning after December 31, 2006, and on or  
13          before the applicable date (as defined in  
14          section 300 of the Infrastructure 2.0 Act),  
15          tax imposed under the law of a foreign  
16          country or possession of the United States  
17          on an amount which does not constitute in-  
18          come under United States tax principles  
19          shall be treated as imposed on income de-  
20          scribed in paragraph (1)(B) (as in effect  
21          for taxable years beginning the day before  
22          such applicable date).

23          “(iii) SPECIAL RULE FOR YEARS BE-  
24          FORE 2007.—

1           “(I) IN GENERAL.—In the case  
2           of taxes paid or accrued in taxable  
3           years beginning after December 31,  
4           2004, and before January 1, 2007, a  
5           taxpayer may elect to treat tax im-  
6           posed under the law of a foreign coun-  
7           try or possession of the United States  
8           on an amount which does not con-  
9           stitute income under United States  
10          tax principles as tax imposed on in-  
11          come described in subparagraph (C)  
12          or (I) of paragraph (1) (as in effect  
13          for taxable years beginning in 2006).

14          “(II) REVOCATION.—Any such  
15          election shall apply to the taxable year  
16          for which made and all subsequent  
17          taxable years described in subclause  
18          (I) unless revoked with the consent of  
19          the Secretary.

20          “(G) TRANSITION RULES FOR CERTAIN  
21          CARRYFORWARDS AND CARRYBACKS.—For pur-  
22          poses of paragraph (1)—

23                 “(i) in the case of any taxes carried  
24                 from any taxable year beginning before the  
25                 applicable date (as defined in section 300

1 of the Infrastructure 2.0 Act), to any tax-  
2 able year beginning on or after such  
3 date—

4 “(I) if such taxes were treated as  
5 attributable to income described in  
6 paragraph (1)(A) (as in effect for tax-  
7 able years beginning the day before  
8 such applicable date), such taxes shall  
9 be treated as attributable to income  
10 described in paragraph (1)(B), and

11 “(II) if such taxes were treated  
12 as attributable to income described in  
13 paragraph (1)(B) (as in effect for tax-  
14 able years beginning the day before  
15 such applicable date), such taxes shall  
16 be treated as attributable to income  
17 described in paragraph (1)(C), and

18 “(ii) the Secretary may by regulations  
19 provide for the allocation of any carryback  
20 of taxes with respect to income from a tax-  
21 able year beginning on or after such appli-  
22 cable date, to a taxable year beginning be-  
23 fore such date for purposes of allocating  
24 such income among the separate categories

1           in effect for the taxable year to which car-  
2           ried.

3           “(3) CONTROLLED FOREIGN CORPORATION;  
4 UNITED STATES SHAREHOLDER.—For purposes of  
5 this subsection—

6           “(A) CONTROLLED FOREIGN CORPORA-  
7 TION.—The term ‘controlled foreign corpora-  
8 tion’ has the meaning given such term by sec-  
9 tion 957 (taking into account section 956(a)).

10          “(B) UNITED STATES SHAREHOLDER.—  
11 The term ‘United States shareholder’ has the  
12 meaning given such term by section 951(b)  
13 (taking into account section 956(a)).

14          “(4) SEPARATE APPLICATION TO ITEMS  
15 RESOURCED UNDER TREATIES.—

16          “(A) IN GENERAL.—If—

17           “(i) without regard to any treaty obli-  
18 gation of the United States, any item of  
19 income would be treated as derived from  
20 sources within the United States,

21           “(ii) under a treaty obligation of the  
22 United States, such item would be treated  
23 as arising from sources outside the United  
24 States, and

1                   “(iii) the taxpayer chooses the bene-  
2                   fits of such treaty obligation,  
3                   subsections (a), (b), and (c) of this section and  
4                   sections 907 and 960 shall be applied sepa-  
5                   rately with respect to each such item.

6                   “(B) COORDINATION WITH OTHER PROVI-  
7                   SIONS.—This paragraph shall not apply to any  
8                   item of income to which subsection (h)(10) or  
9                   section 865(h) applies.

10                  “(C) REGULATIONS.—The Secretary may  
11                  issue such regulations as may be necessary or  
12                  appropriate to carry out the purposes of this  
13                  paragraph, including regulations which provide  
14                  that related items of income may be aggregated  
15                  for purposes of this paragraph.

16                  “(5) REGULATIONS.—The Secretary shall pre-  
17                  scribe such regulations as may be necessary or ap-  
18                  propriate for the purposes of this subsection, includ-  
19                  ing preventing the manipulation of the character of  
20                  income the effect of which is to avoid the purposes  
21                  of this subsection.”.

22                  (b) APPLICATION OF PER COUNTRY LIMITATION.—  
23                  Section 904 is amended by inserting after subsection (d)  
24                  the following new subsection:



1 section 951(b)) which is properly attributable to  
2 such excludable portion. No deduction shall be al-  
3 lowed to a taxpayer under this chapter for any tax  
4 for which a credit is not allowable by reason of the  
5 preceding sentence.

6 “(2) EXCLUDABLE PORTION.—The term ‘ex-  
7 cludable portion’ has the meaning given such term  
8 by section 959(g)(3)(B).

9 “(3) COORDINATION WITH SECTION 78.—Sec-  
10 tion 78 shall not apply to any tax which is not allow-  
11 able as a credit under this section by reason of this  
12 subsection.”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years of foreign corpora-  
15 tions beginning on or after the applicable date, and to tax-  
16 able years of United States shareholders with or within  
17 which such taxable years of foreign corporations end.

### 18 **PART III—EXPENSE DISALLOWANCE**

#### 19 **SEC. 321. DISALLOWANCE OF DEDUCTION FOR EXPENSES** 20 **ALLOCABLE TO EXEMPT INCOME OF A CON-** 21 **TROLLED FOREIGN CORPORATION.**

22 (a) IN GENERAL.—Part IX of subchapter B of chap-  
23 ter 1 is amended by adding at the end the following:

1 **“SEC. 265A. EXPENSES ALLOCABLE TO EXEMPT INCOME OF**  
2 **A CONTROLLED FOREIGN CORPORATION.**

3 “(a) IN GENERAL.—In the case of a United States  
4 shareholder of a controlled foreign corporation for any tax-  
5 able year, no deduction shall be allowed under this chapter  
6 for—

7 “(1) the disallowed portion of any allocable  
8 CFC interest, or

9 “(2) expenses directly allocable to the exclud-  
10 able portion of subpart F income (as defined in sec-  
11 tion 959(g)(3)(B)).

12 “(b) DISALLOWED PORTION.—For purposes of this  
13 section—

14 “(1) IN GENERAL.—The term ‘disallowed por-  
15 tion’ means, with respect to any allocable CFC inter-  
16 est in connection with a controlled foreign corpora-  
17 tion, the exclusion percentage of the amount which  
18 bears the same ratio to the amount of such interest  
19 as—

20 “(A) the corporation’s modified active in-  
21 come (as defined in section 952) for the appli-  
22 cable taxable year, bears to

23 “(B) the corporation’s current earnings  
24 and profits.

25 “(2) CURRENT EARNINGS AND PROFITS.—For  
26 purposes of this subsection—

1           “(A) IN GENERAL.—The term ‘current  
2 earnings and profits’ means the earnings and  
3 profits of the controlled foreign corporation for  
4 the applicable taxable year, without diminution  
5 by reason of distributions made during the tax-  
6 able year.

7           “(B) SPECIAL RULE FOR DETERMINING  
8 EARNINGS AND PROFITS.—Earnings and profits  
9 of any controlled foreign corporation shall be  
10 determined without regard to paragraphs (4),  
11 (5), and (6) of section 312(n). Under regula-  
12 tions, the preceding sentence shall not apply to  
13 the extent it would increase earnings and prof-  
14 its by an amount which was previously distrib-  
15 uted by the controlled foreign corporation.

16           “(3) EXCLUSION PERCENTAGE.—The term ‘ex-  
17 clusion percentage’ means, with respect to any con-  
18 trolled foreign corporation for any taxable year, the  
19 number of percentage points by which 100 percent  
20 exceeds the inclusion percentage determined under  
21 section 952(d) with respect to such controlled for-  
22 eign corporation for such taxable year.

23           “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
24 poses of this section—

1           “(1) **ALLOCABLE CFC INTEREST.**—The term  
2           ‘allocable CFC interest’ means any interest expense  
3           paid or accrued during the taxable year by a United  
4           States shareholder of a controlled foreign corpora-  
5           tion which under section 861, and subsection (e) or  
6           (f) of section 864 (whichever is applicable), is appor-  
7           tioned to income of the controlled foreign corpora-  
8           tion.

9           “(2) **APPLICABLE TAXABLE YEAR.**—The term  
10          ‘applicable taxable year’ means, with respect to any  
11          controlled foreign corporation, the taxable year of  
12          such corporation which ends with or within the tax-  
13          able year of the United States shareholder described  
14          in subsection (a).

15          “(3) **UNITED STATES SHAREHOLDER; CON-**  
16          **TROLLED FOREIGN CORPORATION.**—The term  
17          ‘United States shareholder’ has the meaning given  
18          such term by section 951(b) and the term ‘controlled  
19          foreign corporation’ shall have the meaning given  
20          such term by section 957(a).

21          “(4) **SPECIAL RULE FOR MEMBERS OF AN AF-**  
22          **FILIATED GROUP.**—If a United States shareholder  
23          to which subsection (a) applies is a domestic cor-  
24          poration which is a member of a group all members  
25          of which are treated as a single corporation under

1 subsection (e) or (f) of section 864, whichever is ap-  
2 plicable, all domestic corporations which are mem-  
3 bers of such group shall be treated as a single cor-  
4 poration for purposes of this section.

5 “(5) SPECIAL RULES.—

6 “(A) COORDINATION WITH OTHER PROVI-  
7 SIONS.—Except as provided in regulations, this  
8 section shall be applied before any other provi-  
9 sion of this chapter limiting the deductibility of  
10 any allocable CFC interest.

11 “(B) SEPARATE APPLICATION TO INCOME  
12 IN SEPARATE BASKETS.—This section shall be  
13 applied separately with respect to the categories  
14 of income under section 904(d)(1).

15 “(d) REGULATIONS.—The Secretary shall prescribe  
16 such regulations as may be necessary to carry out the pur-  
17 poses of this section, including regulations providing—

18 “(1) for the sharing of information between  
19 shareholders if necessary to carry out the provisions  
20 of this section,

21 “(2) for directly associating interest or other  
22 expenses disallowed under this section with income  
23 of a controlled foreign corporation and for coordi-  
24 nating this section with other provisions of this

1 chapter limiting the deductibility of interest or other  
2 expenses, and

3 “(3) for the proper application of this section  
4 with respect to the taxpayer’s share of net operating  
5 losses of a controlled foreign corporation.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-  
7 tions for part IX of subchapter B of chapter 1 is amended  
8 by inserting after the item relating to section 265 the fol-  
9 lowing:

“Sec. 265A. Expense allocable to exempt income of a controlled foreign cor-  
poration.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years of foreign corpora-  
12 tions beginning on or after the applicable date, and to tax-  
13 able years of United States shareholders with or within  
14 which such taxable years of foreign corporations end.

15 **PART IV—OTHER PROVISIONS RELATING TO**

16 **SUBPART F**

17 **Subpart A—Previously Deferred Foreign Income**

18 **SEC. 331. TREATMENT OF PREVIOUSLY DEFERRED FOR-**  
19 **EIGN INCOME.**

20 (a) IN GENERAL.—Subpart F of part III of sub-  
21 chapter N of chapter 1 is amended by adding at the end  
22 the following new section:

1 **“SEC. 966. INCLUSION OF PREVIOUSLY DEFERRED FOR-**  
2 **EIGN INCOME.**

3 “(a) INCLUSION AS SUBPART F INCOME.—

4 “(1) IN GENERAL.—Subject to the provisions of  
5 paragraph (2), the subpart F income (determined  
6 under section 952 without regard to this section) of  
7 a controlled foreign corporation for its last taxable  
8 year beginning before the applicable date (as defined  
9 in section 300 of the Infrastructure 2.0 Act), shall  
10 be increased by the accumulated deferred foreign in-  
11 come of the corporation.

12 “(2) INCLUSION ONLY TO APPLY TO DOMESTIC  
13 CORPORATIONS.—In the case of any increase in sub-  
14 part F income of a controlled foreign corporation by  
15 reason of paragraph (1)—

16 “(A) notwithstanding section 951(a)(1),  
17 the inclusion in gross income under such section  
18 of a United States shareholder’s pro rata por-  
19 tion (as determined under section 951(a)(2)) of  
20 such increased subpart F income shall only  
21 apply if the United States shareholder is a do-  
22 mestic corporation, and

23 “(B) there shall be allowed as a deduction  
24 for the taxable year of such United States  
25 shareholder in which such increased subpart F  
26 income is included in such shareholder’s gross

1 income under section 951(a)(1) an amount  
2 equal to the applicable percentage of the  
3 amount of the income so included.

4 “(b) ACCUMULATED DEFERRED FOREIGN IN-  
5 COME.—For purposes of this section—

6 “(1) IN GENERAL.—The term ‘accumulated de-  
7 ferred foreign income’ means the excess of—

8 “(A) the undistributed earnings of the con-  
9 trolled foreign corporation, over

10 “(B) the undistributed U.S. earnings of  
11 such controlled foreign corporation.

12 “(2) UNDISTRIBUTED EARNINGS.—

13 “(A) IN GENERAL.—The term ‘undistrib-  
14 uted earnings’ means the earnings and profits  
15 of the controlled foreign corporation described  
16 in section 959(c)(3), determined—

17 “(i) as of the close of the taxable year  
18 described in subsection (a)(1),

19 “(ii) without diminution by reason of  
20 distributions made during such taxable  
21 year, and

22 “(iii) without regard to this section.

23 “(B) SPECIAL RULE FOR CURRENT YEAR  
24 DISTRIBUTIONS.—For purposes of this chapter,  
25 any determination with respect to the treatment

1 of distributions described in subparagraph  
2 (A)(ii) shall be made after the application of  
3 this section to the earnings and profits de-  
4 scribed in subparagraph (A).

5 “(3) UNDISTRIBUTED U.S. EARNINGS.—The  
6 term ‘undistributed U.S. earnings’ has the meaning  
7 given the term ‘post-1986 undistributed U.S. earn-  
8 ings’ in section 245(a)(5) (as in effect for taxable  
9 years beginning the day before the applicable date  
10 (as defined in section 300 of the Infrastructure 2.0  
11 Act)), determined—

12 “(A) without regard to ‘post-1986’ each  
13 place it appears in the matter before subpara-  
14 graph (A), and

15 “(B) without regard to the last sentence  
16 thereof.

17 “(c) DISALLOWANCE OF FOREIGN TAX CREDIT,  
18 ETC.—

19 “(1) IN GENERAL.—No credit shall be allowed  
20 under section 901 to a United States shareholder of  
21 a controlled foreign corporation for any taxes paid  
22 or accrued (or treated as paid or accrued) with re-  
23 spect to the deductible portion of—

1           “(A) the increased subpart F income of  
2           the corporation included in the gross income of  
3           the shareholder under subsection (a)(2)(A), or

4           “(B) any distribution received by the  
5           shareholder which is properly attributable to  
6           such increased subpart F income.

7           “(2) DENIAL OF DEDUCTION.—No deduction  
8           shall be allowed under this chapter to a United  
9           States shareholder of a controlled foreign corpora-  
10          tion for any tax for which a credit is not allowable  
11          under section 901 by reason of paragraph (1).

12          “(3) DEDUCTIBLE PORTION.—For purposes of  
13          this subsection, the term ‘deductible portion’ means,  
14          with respect to the increased subpart F income of  
15          the corporation included in the gross income of the  
16          shareholder under subsection (a)(2)(A), the applica-  
17          ble percentage of such income with respect to which  
18          a deduction is allowable under subsection (a)(2)(B).

19          “(4) COORDINATION WITH SECTION 78.—Sec-  
20          tion 78 shall not apply to the portion of any tax for  
21          which credit is not allowable under section 901 by  
22          reason of paragraph (1).

23          “(d) APPLICABLE PERCENTAGE.—For purposes of  
24          this section, the term ‘applicable percentage’ means the  
25          percentage which is equal to the ratio of—

1 “(1) the excess of—

2 “(A) the highest rate of tax in effect under  
3 section 11(b) for the taxable year of the United  
4 States shareholder described in subsection  
5 (a)(2)(B), over

6 “(B) 20 percent, to

7 “(2) the highest rate of tax in effect under sec-  
8 tion 11(b) for the taxable year of the United States  
9 shareholder described in subsection (a)(2)(B).

10 The percentage determined under the preceding sentence  
11 shall be rounded to the nearest whole percentage point.

12 “(e) ELECTION TO PAY LIABILITY IN INSTALL-  
13 MENTS.—

14 “(1) IN GENERAL.—In the case of a United  
15 States shareholder with respect to one or more con-  
16 trolled foreign corporations to which subsection (a)  
17 applies, such United States shareholder may elect to  
18 pay the net tax liability under this section in 2 or  
19 more (but not exceeding 8) equal installments.

20 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

21 If an election is made under paragraph (1), the due  
22 date for the first installment shall be the due date  
23 (determined without regard to any extension of time  
24 for filing the return) for the return of tax for the  
25 taxable year described in subsection (a)(2)(B) and

1 the due date for each succeeding installment shall be  
2 the due date (as so determined) for the return of tax  
3 for the taxable year following the taxable year with  
4 respect to which the preceding installment was  
5 made.

6 “(3) ACCELERATION OF PAYMENT.—If there  
7 is—

8 “(A) an assessment of an addition to tax  
9 for failure to pay timely with respect to any in-  
10 stallment required under this subsection,

11 “(B) a liquidation or sale of substantially  
12 all the assets of the taxpayer (including in a  
13 title 11 or similar case),

14 “(C) a cessation of business by the tax-  
15 payer, or

16 “(D) any similar circumstance,

17 then the unpaid portion of all remaining installments  
18 shall be due on the date of such event (or in the case  
19 of a title 11 or similar case, the day before the peti-  
20 tion is filed).

21 “(4) PRORATION OF DEFICIENCY TO INSTALL-  
22 MENTS.—If an election is made under paragraph (1)  
23 to pay the net tax liability under this section in in-  
24 stallments and a deficiency has been assessed, the  
25 deficiency shall be prorated to the installments pay-

1       able under paragraph (1). The part of the deficiency  
2       so prorated to any installment the date for payment  
3       of which has not arrived shall be collected at the  
4       same time as, and as a part of, such installment.  
5       The part of the deficiency so prorated to any install-  
6       ment the date for payment of which has arrived  
7       shall be paid upon notice and demand from the Sec-  
8       retary. This paragraph shall not apply if the defi-  
9       ciency is due to negligence, to intentional disregard  
10      of rules and regulations, or to fraud with intent to  
11      evade tax.

12           “(5) RULES RELATING TO INTEREST.—

13           “(A) IN GENERAL.—In the case of any net  
14      tax liability prorated to an installment under  
15      this subsection, the last date prescribed for pay-  
16      ment of the tax for purposes of section 6601(a)  
17      shall be the last date for payment of the install-  
18      ment rather than the last date for payment of  
19      tax for the taxable year in which the net tax li-  
20      ability arose.

21           “(B) SPECIAL RULES FOR DEFICI-  
22      CIENCIES.—

23           “(i) INTEREST PAYABLE FOR ENTIRE  
24      PERIOD.—Subparagraph (A) shall not

1 apply to any deficiency prorated to an in-  
2 stallment under paragraph (4).

3 “(ii) PAYMENT OF INTEREST ATTRIB-  
4 UTABLE TO PRIOR PERIODS.—In the case  
5 of a deficiency to which paragraph (4) ap-  
6 plies, interest with respect to such defi-  
7 ciency which is assigned under paragraph  
8 (4) to any installment the date for pay-  
9 ment of which has arrived on or before the  
10 date of the assessment of the deficiency,  
11 shall be paid upon notice and demand from  
12 the Secretary.

13 “(6) PERIOD OF ASSESSMENT.—Notwith-  
14 standing section 6501, the period for assessing the  
15 net tax liability under this section for which an elec-  
16 tion is made under paragraph (1) shall not expire  
17 before the due date for the last installment.

18 “(7) ELECTION.—Any election under paragraph  
19 (1) shall be made not later than the due date for the  
20 return of tax for the taxable year of the United  
21 States shareholder described in subsection (a)(2)(B)  
22 and shall be made in such manner as the Secretary  
23 may provide.

24 “(8) NET TAX LIABILITY UNDER THIS SEC-  
25 TION.—For purposes of this subsection—

1           “(A) IN GENERAL.—The net tax liability  
2           under this section with respect to any United  
3           States shareholder is the excess (if any) of—

4                   “(i) such taxpayer’s net income tax  
5                   for the taxable year, over

6                   “(ii) such taxpayer’s net income tax  
7                   for such taxable year determined without  
8                   regard to this section.

9           “(B) NET INCOME TAX.—The term ‘net  
10           income tax’ means the net income tax (as de-  
11           fined in section 38(c)(1)) reduced by the credit  
12           allowed under section 38.

13           “(C) REGULATIONS.—The Secretary shall  
14           prescribe such regulations as may be necessary  
15           for the determination under this subsection of  
16           the net tax liability under this section in the  
17           case of any pass-thru entity.

18           “(f) REGULATIONS.—The Secretary shall promulgate  
19           such regulations as necessary to carry out the purposes  
20           of this section, including regulations for the application  
21           of this section to pass-through entities all or part of which  
22           are owned by 1 or more domestic corporations.”.

23           (b) ORDERING RULE FOR PURPOSES OF TREATMENT  
24           OF PREVIOUSLY TAXED INCOME.—

1           (1) IN GENERAL.—Section 959 is amended by  
2           adding at the end the following new subsection:

3           “(g) SPECIAL ORDERING RULE.—Notwithstanding  
4           subsection (e), for purposes of subsections (a) and (b), sec-  
5           tion 316(a) shall be applied by applying paragraph (2)  
6           thereof and then paragraph (1) thereof—

7           “(1) first to the deductible portion (as defined  
8           in section 966(c)(3)) of the increase in subpart F in-  
9           come described in section 966(a)(1) included in the  
10          gross income of United States shareholders under  
11          section 951(a)(1) (after application of section  
12          966(a)(2)(A)), and

13          “(2) then to amounts described in paragraph  
14          (1), (2), or (3) of subsection (c).”.

15          (2) CONFORMING AMENDMENT.—Section  
16          959(c) is amended by inserting “except as provided  
17          in subsection (g),” after “subsections (a) and (b),”.

18          (c) CONFORMING AMENDMENTS.—

19          (1) Clause (vi) of section 56(g)(4)(C) is amend-  
20          ed—

21                  (A) by inserting “or section 966(a)” after  
22                  “section 965”, and

23                  (B) by inserting “AND INCLUSIONS” after  
24                  “CERTAIN DISTRIBUTIONS” in the heading  
25                  thereof.

1           (2) Paragraph (3) of section 245(a) is amend-  
2 ed—

3           (A) by striking “post-1986” in subpara-  
4 graph (A), and

5           (B) by striking “total post-1986” in sub-  
6 paragraph (B).

7           (3) Paragraph (4) of section 245(a) is amended  
8 to read as follows:

9           “(4) **UNDISTRIBUTED EARNINGS.**—The term  
10 ‘undistributed earnings’ means the amount of the  
11 earnings and profits of the controlled foreign cor-  
12 poration (computed in accordance with sections  
13 964(a) and 986)—

14           “(A) as of the close of the taxable year of  
15 the controlled foreign corporation in which the  
16 dividend is distributed, and

17           “(B) without diminution by reason of divi-  
18 dends distributed during such taxable year.”.

19           (4) Paragraph (5) of section 245(a) is amend-  
20 ed—

21           (A) by striking “post-1986” both places it  
22 appears in the matter preceding subparagraph  
23 (A), and

1 (B) by striking “POST-1986 UNDISTRIB-  
2 UTED” in the heading thereof and inserting  
3 “UNDISTRIBUTED”.

4 (5) Paragraph (6) of section 245(a) is amend-  
5 ed—

6 (A) by striking “beginning after December  
7 31, 1986” and inserting “which is after the  
8 first taxable year of such corporation”, and

9 (B) by striking “post-1986” both places it  
10 appears.

11 (6) Paragraph (2) of section 6601(b) is amend-  
12 ed—

13 (A) by striking “section 6156(a)” in the  
14 matter preceding subparagraph (A) and insert-  
15 ing “section 965(d)(1) or 6156(a)”, and

16 (B) by striking “section 6156(b)” in sub-  
17 paragraph (A) and inserting “section 965(d)(2)  
18 or 6156(b), as the case may be”.

19 (7) The table of sections for subpart F of part  
20 III of subchapter N of chapter 1 is amended by  
21 striking the item relating to section 965 and insert-  
22 ing the following:

“Sec. 966. Inclusion of previously deferred foreign income.”.

23 (d) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-  
25 graph (2), the amendments made by this section

1 shall apply to the last taxable year of foreign cor-  
2 porations beginning before the applicable date, and  
3 to taxable years of United States shareholders with  
4 or within which such taxable years of foreign cor-  
5 porations end.

6 (2) CONFORMING AMENDMENTS RELATED TO  
7 SECTION 245.—The amendments made by para-  
8 graphs (2), (3), (4), and (5) of subsection (c) shall  
9 apply to taxable years of foreign corporations begin-  
10 ning on or after the applicable date, and to taxable  
11 years of United States shareholders with or within  
12 which such taxable years of foreign corporations  
13 end.

#### 14 **Subpart B—Other Provisions**

##### 15 **SEC. 336. ELIMINATION OF 30-DAY REQUIREMENT.**

16 (a) IN GENERAL.—Section 951(a)(1) is amended by  
17 striking “for an uninterrupted period of 30 days or more”  
18 and inserting “at any time”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to taxable years of foreign corpora-  
21 tions beginning on or after the applicable date, and to tax-  
22 able years of United States shareholders with or within  
23 which such taxable years of foreign corporations end.

1 **SEC. 337. MODIFICATION OF DEFINITION OF UNITED**  
2 **STATES SHAREHOLDER.**

3 (a) **IN GENERAL.**—Section 951(b) is amended by in-  
4 serting “, or 10 percent or more of the total value of  
5 shares of all classes of stock of such foreign corporation”  
6 after “such foreign corporation”.

7 (b) **EFFECTIVE DATE.**—The amendment made by  
8 this section shall apply to taxable years of foreign corpora-  
9 tions beginning on or after the applicable date, and to tax-  
10 able years of United States shareholders with or within  
11 which such taxable years of foreign corporations end.

12 **Subtitle B—Reform of Foreign Tax**  
13 **Credit Provisions**

14 **SEC. 341. REPEAL OF SECTION 902 INDIRECT FOREIGN TAX**  
15 **CREDITS; FOREIGN TAX CREDIT RELATED TO**  
16 **SUBPART F INCOME.**

17 (a) **REPEAL OF SECTION 902 INDIRECT FOREIGN**  
18 **TAX CREDITS.**—Subpart A of part III of subchapter N  
19 of chapter 1 is amended by striking section 902.

20 (b) **FOREIGN TAX CREDIT RELATED TO SUBPART F**  
21 **INCOME.**—

22 (1) **IN GENERAL.**—Section 960 is amended by  
23 redesignating subsections (b) and (c) as subsections  
24 (c) and (d), respectively, and by striking subsection  
25 (a) and inserting the following:

1       “(a) DETERMINATION OF CREDIT ON CURRENT  
2 YEAR BASIS.—For purposes of this subpart, if there is  
3 included in the gross income of a domestic corporation any  
4 amount under section 951(a) with respect to any con-  
5 trolled foreign corporation with respect to which such do-  
6 mestic corporation is a United States shareholder, such  
7 domestic corporation shall be deemed to have paid so  
8 much of such foreign corporation’s foreign income taxes  
9 as are properly attributable to the amount so included.

10       “(b) TREATMENT OF FOREIGN TAXES NOT PRE-  
11 VIOUSLY DEEMED PAID.—For purposes of this subpart—

12               “(1) IN GENERAL.—If any portion of a dis-  
13 tribution from a controlled foreign corporation re-  
14 ceived by a domestic corporation is excluded from  
15 gross income under section 959(a), such domestic  
16 corporation shall be deemed to have paid so much of  
17 such foreign corporation’s foreign income taxes as  
18 are properly attributable to the amount so excluded  
19 to the extent such taxes were not deemed paid by  
20 the domestic corporation under this section for any  
21 prior taxable year.

22               “(2) TAXES OF LOWER-TIER CFCS.—If a con-  
23 trolled foreign corporation receives a distribution  
24 any portion of which is described in section 959(b)  
25 from another controlled foreign corporation, such

1 foreign corporation shall be deemed to have paid so  
2 much of such other foreign corporation's foreign in-  
3 come taxes as are properly attributable to the  
4 amount so described to the extent such taxes were  
5 not deemed paid by a domestic corporation under  
6 this section for any prior taxable year.”.

7 (2) APPLICATION WITH RESPECT TO FOREIGN  
8 TAX CREDIT LIMITATION.—Section 960(c), as redese-  
9 gnated by paragraph (1), is amended by adding at  
10 the end the following new paragraph:

11 “(6) APPLICATION WITH RESPECT TO FOREIGN  
12 TAX CREDIT LIMITATION.—This subsection shall be  
13 applied separately with respect to each category of  
14 income described in section 904(d)(1).”.

15 (3) CONFORMING AMENDMENTS.—

16 (A) Section 960 is amended by striking  
17 subsection (d), as redesignated by paragraph  
18 (1), and inserting the following:

19 “(d) FOREIGN INCOME TAXES.—For purposes of this  
20 section, the term ‘foreign income taxes’ means any income,  
21 war profits, or excess profits taxes paid or accrued by a  
22 foreign corporation to any foreign country or possession  
23 of the United States.

24 “(e) REGULATIONS.—The Secretary shall provide  
25 such regulations as may be necessary or appropriate to

1 carry out the provisions of this section, including rules for  
2 the application of this section to domestic partnerships  
3 with partners that are domestic corporations.”.

4 (B) Section 960 is amended by striking the  
5 heading and inserting “**DEEMED PAID CRED-**  
6 **IT FOR SUBPART F INCLUSIONS**”.

7 (c) MODIFICATION TO SECTION 78 GROSS UP.—Sec-  
8 tion 78 is amended to read as follows:

9 “**SEC. 78. AMOUNTS RECEIVED FROM CERTAIN FOREIGN**  
10 **CORPORATIONS BY DOMESTIC CORPORA-**  
11 **TIONS CHOOSING FOREIGN TAX CREDIT.**

12 “If a domestic corporation which is a United States  
13 shareholder chooses to have the benefits of subpart A of  
14 part III of subchapter N (relating to foreign tax credits)  
15 for any taxable year, an amount equal to the taxes deemed  
16 to be paid by such corporation under section 960 for such  
17 taxable year—

18 “(1) shall be treated as an amount included in  
19 the gross income under section 951(a), and

20 “(2) for purposes of section 904, shall be  
21 deemed to be attributable to the same category of  
22 income described in section 904(d)(1) as the income  
23 which gave rise to the taxes deemed paid by such  
24 corporation.”.

25 (d) CONFORMING AMENDMENTS.—

1           (1) Subclause (III) of section 56(g)(4)(C)(iii) is  
2 amended by inserting “as in effect before its repeal”  
3 after “section 902”.

4           (2) Sections 535(b)(1) and 545(b)(1) are each  
5 amended by striking “section 902(a) or 960(a)(1)”  
6 and inserting “section 960”.

7           (3) Subparagraph (B) of section 814(f)(1) is  
8 repealed.

9           (4) Subsection (a) of section 901 is amended by  
10 striking “sections 902 and 960” and inserting “sec-  
11 tion 960”.

12           (5) Paragraph (2) of section 901(e) is amended  
13 by striking “but is not limited to—” and all that fol-  
14 lows through “that portion” and inserting “but is  
15 not limited to that portion”.

16           (6) Subsection (f) of section 901 is amended by  
17 striking “sections 902 and 960” and inserting “sec-  
18 tion 960”.

19           (7) Subparagraph (A) of section 901(j)(1) is  
20 amended by striking “902 or”.

21           (8) Subparagraph (A) of section 904(h)(10) is  
22 amended by striking “sections 902, 907, and 960”  
23 and inserting “sections 907 and 960”.

24           (9) Subsection (k) of section 904 is amended to  
25 read as follows:

1       “(k) CROSS REFERENCE.—For modification of limi-  
2       tation under subsection (a) for purposes of determining  
3       the amount of credit which can be taken against the alter-  
4       native minimum tax, see section 59(a).”.

5               (10) Paragraph (1) of section 905(c) is amend-  
6       ed by striking the last sentence.

7               (11) Subclause (I) of section 905(c)(2)(B) is  
8       amended by striking “902 or”.

9               (12) Subsection (a) of section 906 is amended  
10      by striking “(or deemed, under section 902, paid or  
11      accrued during the taxable year)”.

12              (13) Subsection (b) of section 906 is amended  
13      by striking paragraphs (4) and (5).

14              (14) Subparagraph (B) of section 907(b)(2) is  
15      amended by striking “902 or”.

16              (15) Paragraph (3) of section 907(c) is amend-  
17      ed—

18                      (A) by striking subparagraph (A) and re-  
19                      designating subparagraphs (B) and (C) as sub-  
20                      paragraphs (A) and (B), respectively, and

21                      (B) by striking “section 960(a)” in sub-  
22                      paragraph (A) (as so redesignated) and insert-  
23                      ing “section 960”.

24              (16) Paragraph (5) of section 907(c) is amend-  
25      ed by striking “902 or”.

1           (17) Clause (i) of section 907(f)(2)(B) is  
2 amended by striking “902 or”.

3           (18) Subsection (a) of section 908 is amended  
4 by striking “902 or”.

5           (19) Paragraph (1) of section 958(a) is amend-  
6 ed by striking “960(a)(1)” and inserting “960”.

7           (20) Subparagraph (B) of section 6038(c)(1) is  
8 amended by striking “sections 902 (relating to for-  
9 eign tax credit for corporate stockholder in foreign  
10 corporation) and 960 (relating to special rules for  
11 foreign tax credit)” and inserting “section 960”.

12           (21) Paragraph (4) of section 6038(c) is  
13 amended by striking subparagraph (C).

14           (22) The table of sections for subpart A of part  
15 III of subchapter N of chapter 1 is amended by  
16 striking the item relating to section 902.

17           (23) The table of sections for part II of sub-  
18 chapter B of chapter 1 is amended by striking  
19 “Dividends” in the item relating to section 78 and  
20 inserting “Amounts”.

21           (24) The table of sections for subpart F of part  
22 III of subchapter N of chapter 1 is amended by  
23 striking the item relating to section 960 and insert-  
24 ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years of foreign corpora-  
3 tions beginning on or after the applicable date, and to tax-  
4 able years of United States shareholders with or within  
5 which such taxable years of foreign corporations end.

6 **SEC. 342. REPEAL OF RULE SUSPENDING FOREIGN TAXES**  
7 **AND CREDITS UNTIL RELATED INCOME IS**  
8 **TAKEN INTO ACCOUNT.**

9 (a) IN GENERAL.—Subpart A of part III of sub-  
10 chapter N of chapter 1 is amended by striking section 909.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 901(m)(1)(B) is amended by strik-  
13 ing “a section 902 corporation (as defined in section  
14 909(d)(5))” and inserting “a controlled foreign cor-  
15 poration (as defined in section 957(a))”.

16 (2) The table of sections of subpart A of part  
17 III of subchapter N of chapter 1 is amended by  
18 striking the item relating to section 909.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to foreign taxes paid or accrued  
21 in taxable years beginning on or after the applicable date.

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